



Board of Trustees - Study Session

Tuesday, May 24, 2022 at 5:45 pm

**PLEASE SILENCE ALL CELL PHONE AND ELECTRONIC DEVICES.
THANK YOU**

1. Meeting Information

207 Muegge Way, Bennett, CO 80102

For a live stream of the meeting use the information below:

<https://us02web.zoom.us/j/84285000718>

Meeting ID: 842 8500 0718

Passcode: 677682

One tap mobile

+16699006833

2. Update of Telecommunications Regulations in Chapter 16 of the Bennett Municipal Code

Steve Hebert, Planning and Economic Development Manager

Attachments:

- **Staff Report Update of Telecommunications Regulations in Chapter 16 of the Bennett Municipal Code** (0_-_Staff_Report.pdf)
- **PowerPoint Presentation Update of Telecommunications Regulations in Chapter 16 of the Bennett Municipal Code** (1_Telecom_BoT_Study_Session_05_24_22.pdf)
- **Draft Telecommunications Ordinance** (2_TOWN_OF_BENNETT_Wirelss_Code_Draft_v.2__mc_redline_StdySessVer.pdf)
- **Draft Design Standards** (3_BENNETT_WCF_Design_Standards__mc_redline_.pdf)

3. Proposed Amendments to Chapter 8 of the Bennett Municipal Code

Steve King, Special Projects Coordinator

Taeler Houlberg, Administrative Services Director

Attachments:

- **Staff Report Proposed Amendments to Chapter 8 of the Bennett Municipal Code** (0_-_Proposed_amendments_to_Chapter_8_Staff_Report_-_Final.pdf)
- **Redline of Chapter 8 of the Bennett Municipal Code** (1_-_Chapter_8_Revisions_Draft_-_5-24-2022_Board_Meeting.pdf)

4. Best Practices - Board Meeting Summary Minutes vs Action Minutes

Christina Hart, Town Clerk

Attachments:

- **Memo Best Practices - Board Meeting Summary Minutes vs Action Minutes** (0_-_May_24__2022_Draft_Summary_Minutes_vs_Action_Minutes_Memo_-_thredline.pdf)
- **Town of Bennett Summary Minutes** (04-26-2022_-_Regular_Meeting_Minutes.pdf)
- **Action Minutes Example - Town of Elizabeth** (Town_of_Elizabeth_Board_Action_Minutes_.pdf)

Contact: Christina Hart (chart@bennett.co.us 303-644-3249 x1001) | Agenda published on 05/19/2022 at 4:06 PM

TO: Mayor and Town of Bennett Board of Trustees
FROM: Steve, Hebert, Planning and Economic Development Manager
DATE: May 24, 2022
SUBJECT: Update of Telecommunications Regulations in Chapter 16 of the Bennett Municipal Code

Background

Chapter 16, Article II of the Bennett Municipal Code includes several regulations relative to telecommunications facilities. The current definition of a telecommunications facility means “radio or television broadcasting towers, telecommunications towers, and antenna satellite dish arrays (freestanding or tower-mounted). A telecommunication facility does not include residential television antennas, satellite dish antennas, or amateur radio antennas.”

The current regulations were adopted by the Board of Trustees in February 2016 by Ordinance No. 661-16. Pursuant to the current code, service providers (Verizon, AT&T, T-Mobile and their affiliates) must secure a conditional use permit (CUP) approved by the Board of Trustees.

Since 2016, the Federal Communications Commission (FCC) and the Colorado State Legislature have adopted regulations and laws clarifying and restricting how local governments can regulate such facilities. The result has been to significantly minimize local control. Proponents of these changes have argued that telecommunication services, including wireless communications, are essential services and standardized rules and regulations are in the best interest of the general public.

One of the most significant changes has been that telecommunication service providers (e.g. Verizon, AT&T, T-Mobile and their affiliates) can locate certain small cell wireless telecommunication facilities in the public right-of-way as a use-by-right and that no discretionary local government approval is permissible. The Town of Bennett can no longer require a conditional use permit for most telecommunications facilities.

Working through the Colorado Communications and Utility Alliance, Ken Fellman, attorney with Kissinger and Fellman, has helped the Town prepare the amendments to the code. Mr. Fellman is recognized nationally for his representation of local government interests relative to telecommunications.

Proposed Code Updates

Section 16-2-210: The proposed changes to Section 16-2-210 include new or updated definitions of several terms, including:

- *Alternative Tower Structures*
- *Antenna*
- *Base Stations*

- *Camouflaging*
- *Concealment*
- *Collocation*
- *Eligible Facilities Requests*
- *Equipment Cabinets*
- *Small Cell Facility*
- *Support Structures*
- *Towers*
- *Transmission Equipment*
- *Wireless Communications Facilities (WCF)*

New Sections 16-9-910 through 950: Language has been added to address:

- *Purpose and Goals*
- *Applicability, Waiver and Exemptions*
- *Operational Standards, including:*
 - *Federal requirements*
 - *Radio frequency standards*
 - *Signal interference*
 - *Operation and maintenance*
 - *Abandonment and removal*
- *Reference to Design Standards*
- *Review Procedures and Requirements have been clarified, including standards and timeframes for approval. (Federal and state law limits the timeframe for review to 60 days.)*
- *Standards for Approval*

Design Standards

- *Design standards are proposed to address:*
 - *Camouflage/Concealment*
 - *Siting*
 - *Lighting*
 - *Landscaping and fencing requirements*
- *Specific design requirements for:*
 - *Base stations*
 - *Alternative town structures*
 - *Towers*

PowerPoint Presentation

See Staff's PowerPoint presentation for a visual description of many of the terms discussed in this report.

Code Update Process

Following study session discussions with the Planning and Zoning Commission and the Board of Trustees, Staff will present, in public hearings, a formal code amendment incorporating any changes or additions.

Attachments

1. Staff PowerPoint Presentation
2. Draft Telecommunications Ordinance
3. Draft Design Standards

Update to Chapter 16 – Telecommunications Regulations

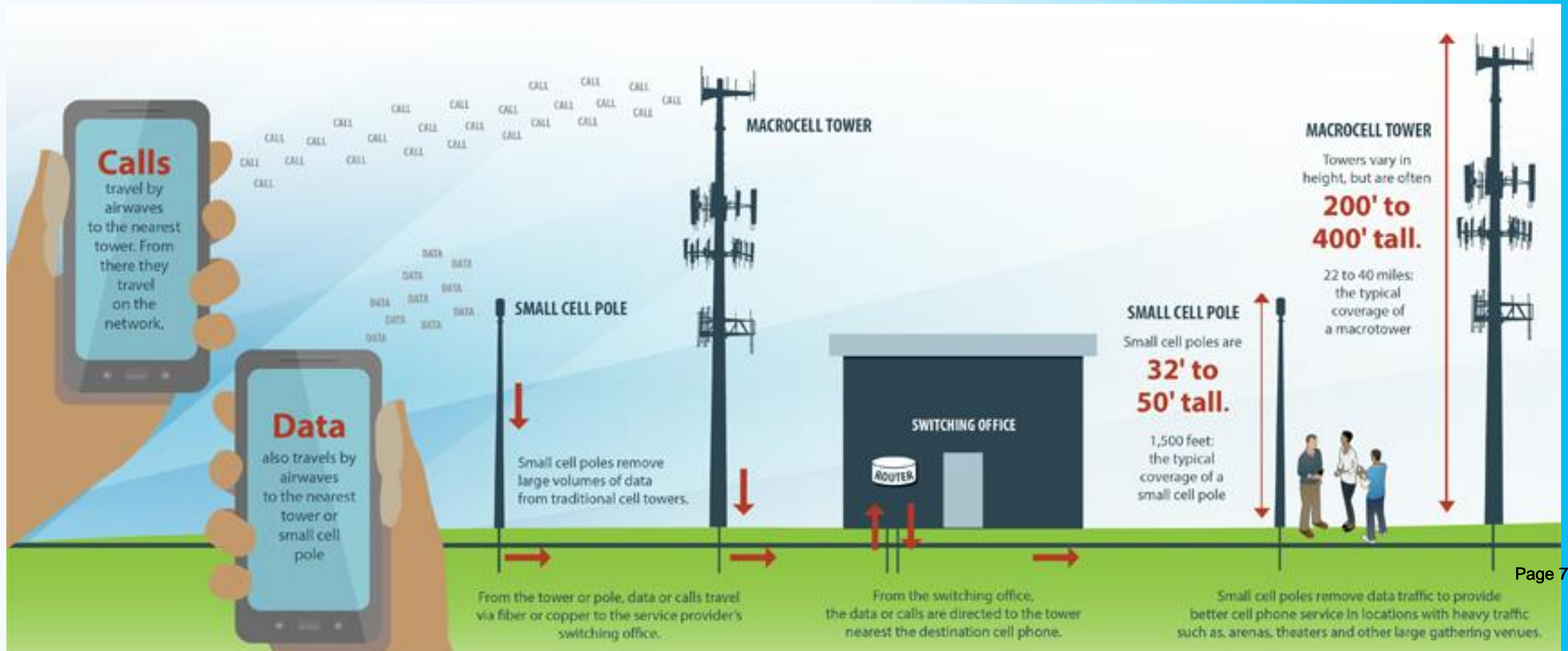
Town of Bennett Board of Trustees
Study Session

May 24, 2022

Steve Hebert, Planning and Economic Development Manager



An Evolving Wireless Telecommunications Network



Why Update our Code?

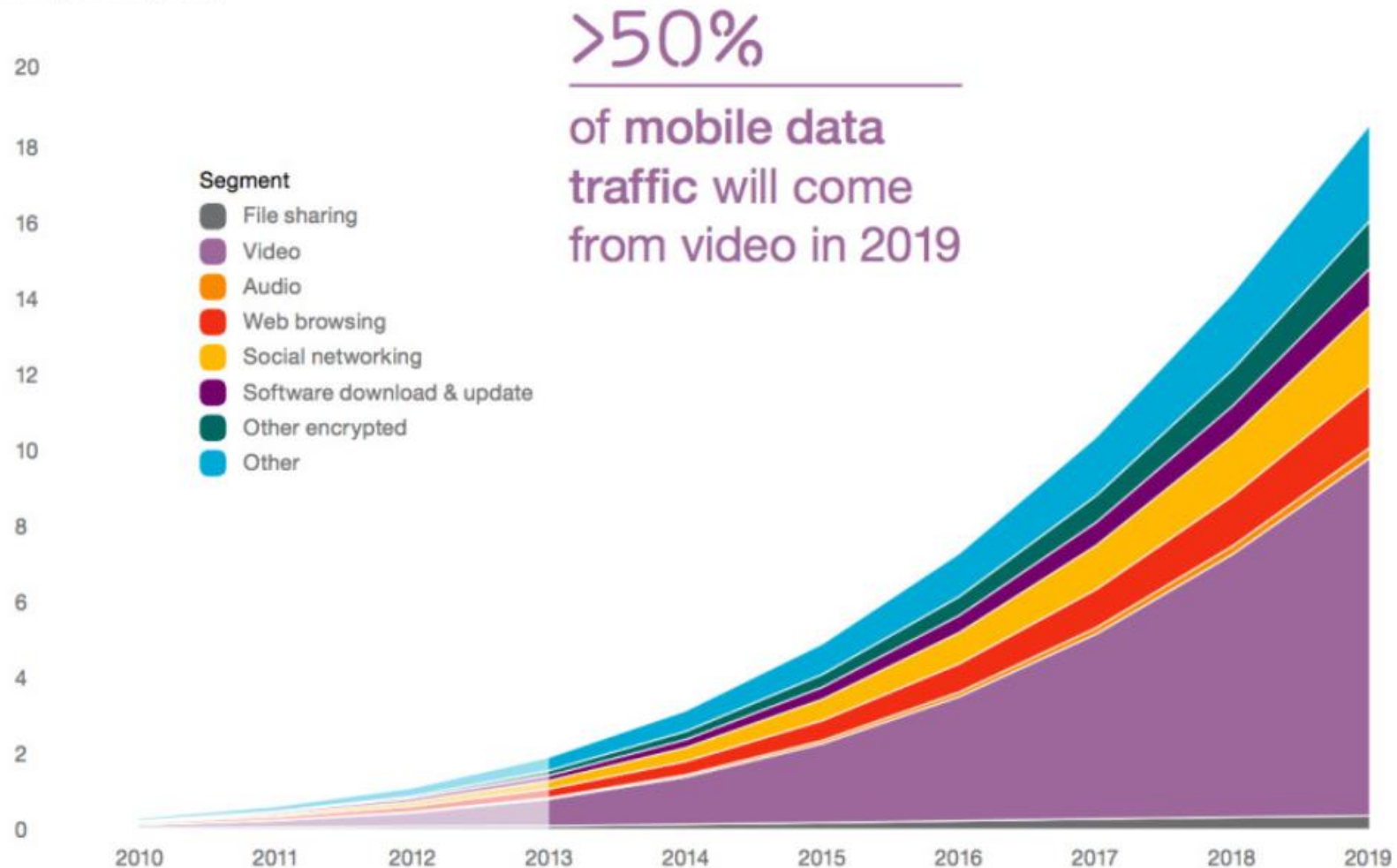
- Bennett's current code was last updated in 2016.
- Federal and state regulations and laws have consistently eroded local control of the telecommunications industry.
- In June 2017, the Colorado General Assembly passed House Bill 17-1193, concerning the installation of Small Cell Facilities within a local government's jurisdiction.
- The statute provides wireless service providers the right to install Small Cell Facilities within the public rights of way owned by the Town in any zone district.
- While Bennett is required by state law to allow such infrastructure in any zone district, the Town retains the authority to address issues related to the design standards and exact siting location of Small Cell Facilities.
- The Town is prohibited under federal law from imposing any requirement that would have the effect of prohibiting a company from providing wireless service.

Why is this Happening?

- Wireless communications has changed the way we live.
- **Big data.**
- Smart cities, smart buildings, smart transportation, smart retail, smart homes, smart government.
- State and federal laws continue to change to accommodate the industry (Verizon, AT&T, T-Mobile, et. al.).

Trends in Mobile Data Traffic (2010 – 2019)

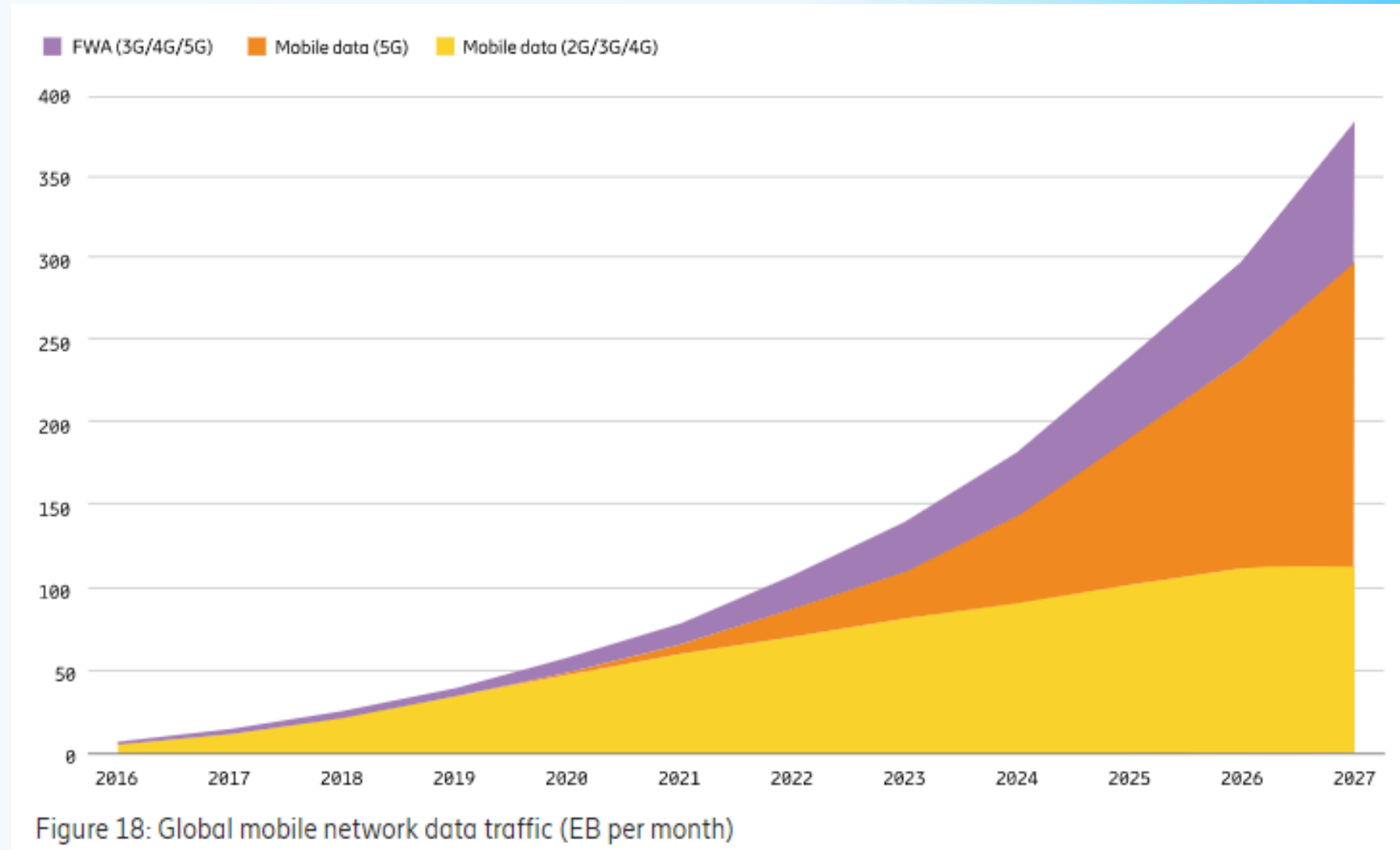
Mobile data traffic by application type
(monthly ExaBytes)



Trends in Mobile Traffic

(2016 – 2027)

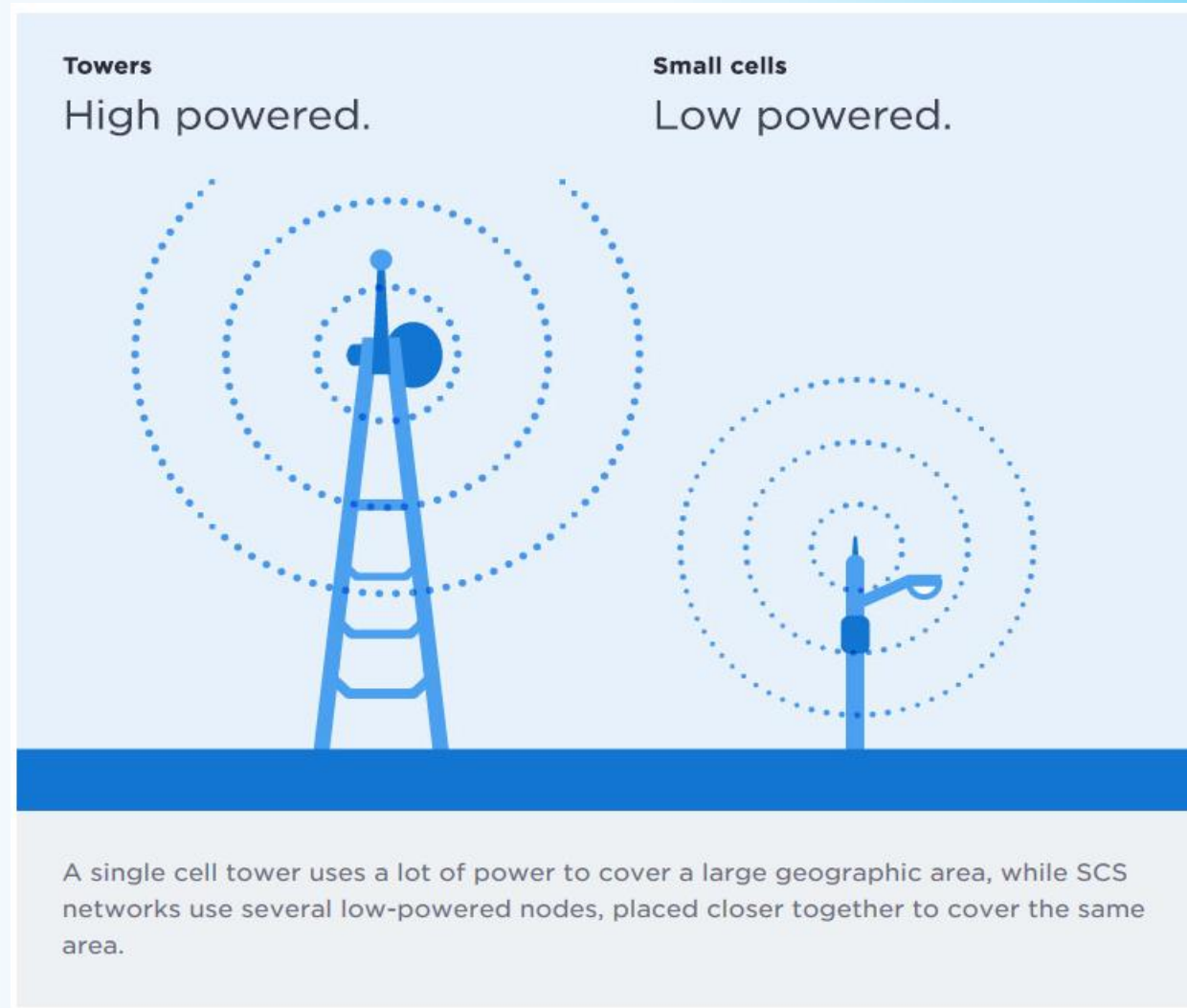
Source: Ericsson



Some Key Terms and Concepts

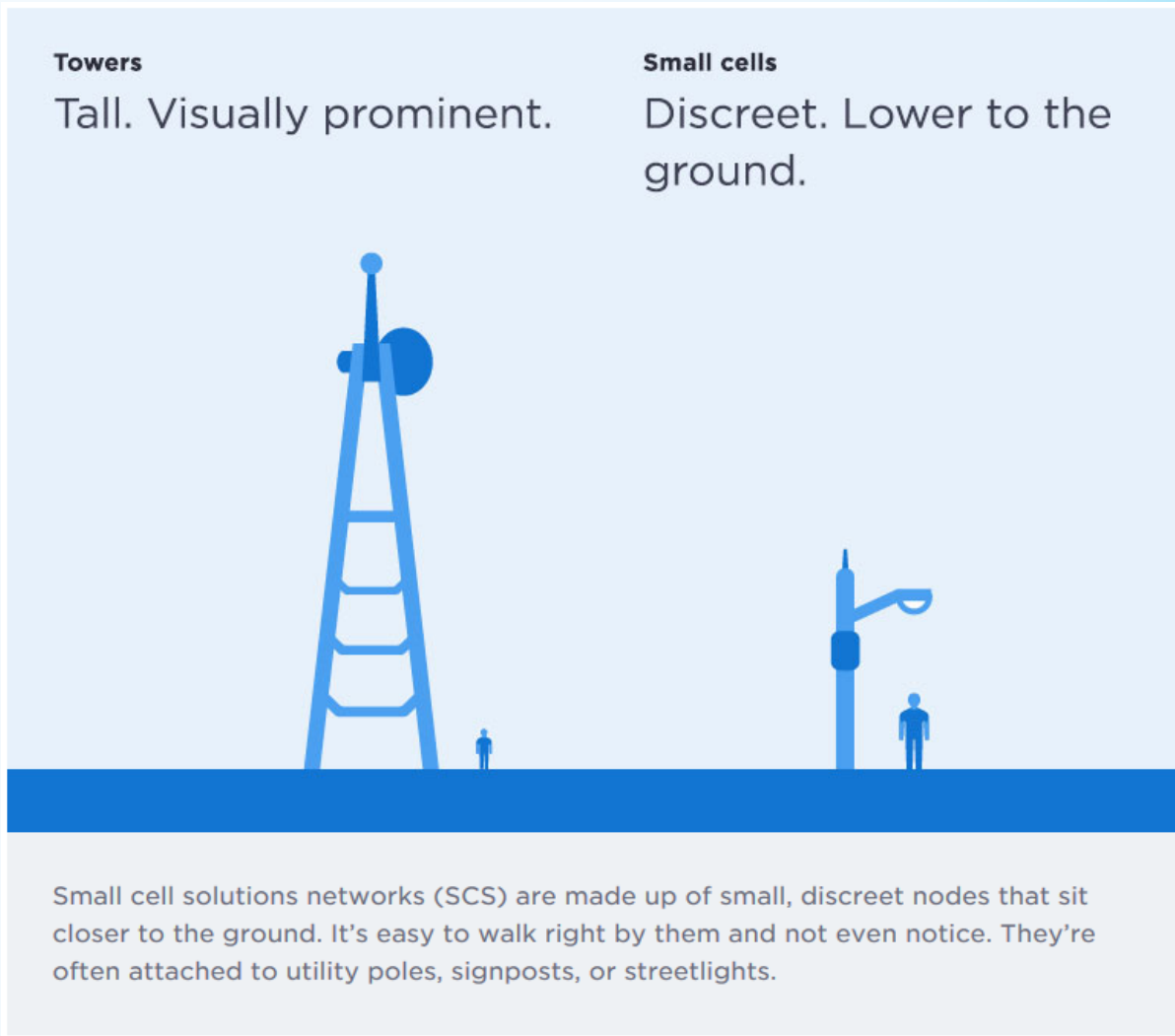
Network of Macro and Small Cell Sites

(Source: Crown Castle)



Network of Towers and Small Cell Sites

(Source: Crown Castle)



Macro Wireless Towers

(built for the sole purpose of supporting antennas)

6th Avenue Between Harback & Schumaker

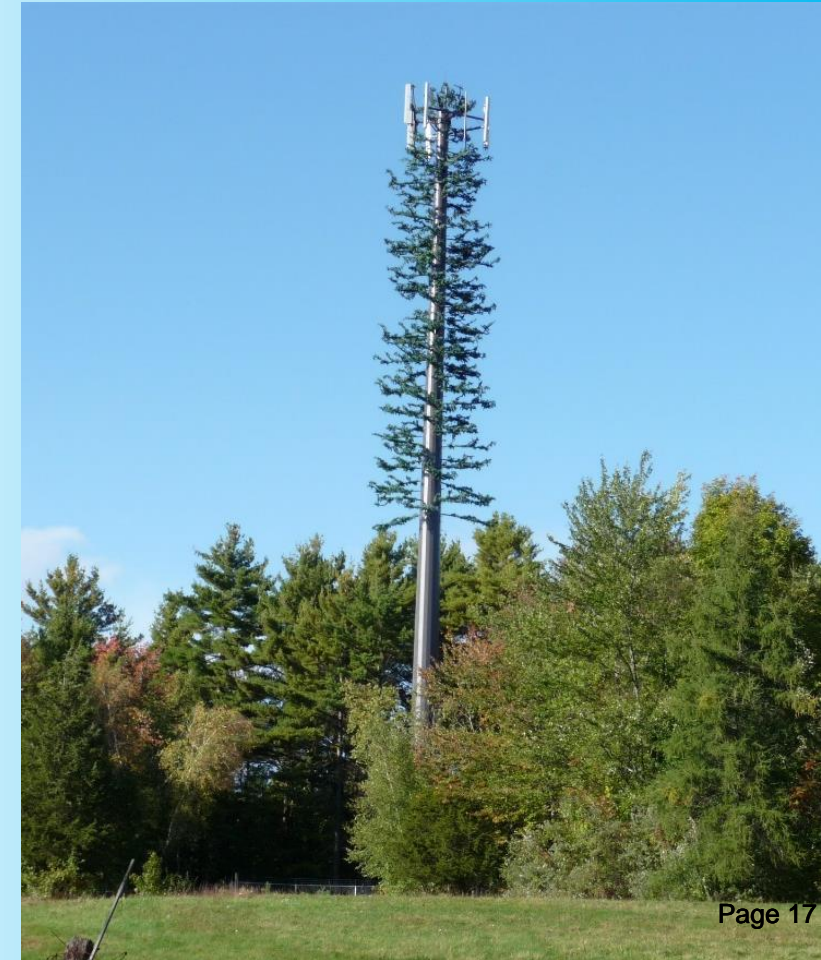


East of Bennett on E. Colfax North of Ladybird Hill



New towers and major revisions require a Conditional Use Permit, reviewed by the Planning and Zoning Commission and approved by the Board of Trustees.

Alternative Tower Structures



Concealment



Camouflage



What do small cell wireless facilities look like?

Early Small Cell Installations



Evolving Designs



Recent Small Cell Installations



Benefits

- Enhanced state-of-the-art communications network
- Important piece of infrastructure for Economic Development
- Additional capacity for data use and telecommuting
- More reliable voice calls
- Improved communication for public safety
- Potential infrastructure for emergency service providers

Key Provisions of State Legislation - HB17-1193

- Placement of small cell facilities a “use by right” in any zone or in town-owned rights-of-way, subject to police powers
- The Town cannot discriminate among or grant preference to competing providers
- Providers have the right to locate or collocate small cell facilities or networks on light poles, traffic signals or utility poles owned by the town
- Allows for consolidated applications to receive a permit for multiple locations
- Limits fees town can charge a provider

Zayo Communications Proposal



Proposed Code Updates

Section 16-2-210: The proposed changes to Section 16-2-210 include new or updated definitions of several terms, including:

- *Alternative Tower Structures*
- *Antenna*
- *Base Stations*
- *Camouflaging*
- *Concealment*
- *Collocation*
- *Eligible Facilities Requests*
- *Equipment Cabinets*
- *Small Cell Facility*
- *Support Structures*
- *Towers*
- *Transmission Equipment*
- *Wireless Communications Facilities (WCF)*

Proposed Code Updates

Section 16-9-910 through 950: New language has been added to address:

- *Purpose and Goals*
- *Applicability, Waiver and Exemptions*
- *Operational Standards, including:*
 - *Federal requirements*
 - *Radio frequency standards*
 - *Signal interference*
 - *Operation and maintenance*
 - *Abandonment and removal*
- **Reference to Design Standards**
- **Review Procedures and Requirements have been clarified, including standards and timeframes for approval. (Federal and state law limits the timeframe for review to 60 days.)**
- **Standards for Approval**

Proposed Code Updates

Design Standards

- Design standards are proposed to address:
 - *Camouflage/Concealment*
 - *Siting*
 - *Lighting*
 - *Landscaping and fencing requirements*
- Specific design requirements for:
 - *Base stations*
 - *Alternative town structures*
 - *Towers*

Minor revisions to towers and new alternative tower structures, including small cell wireless installations are a use-by-right and approved administratively.

Questions or comments?

ORDINANCE NO.

**AN ORDINANCE AMENDING CHAPTER 16 OF THE TOWN BOARD OF TRUSTEES
OF BENNETT MUNICIPAL CODE CONCERNING WIRELESS COMMUNICATION
FACILITIES
THE TOWN OF BENNETT, COLORADO**

WHEREAS, the Town of Bennett (the “Town”) is a statutory town incorporated and organized pursuant to the provisions of Section 31-2-101, *et seq.*, C.R.S.; and

WHEREAS, Section 29-20-104, C.R.S., grants municipalities the authority to plan for and regulate the planned and orderly use of land on the basis of the impact thereof on the community; and

WHEREAS, the Town is authorized pursuant to Section 31-15-401, C.R.S., to exercise its police powers to promote and protect the health, safety, and welfare of the community and its inhabitants; and

WHEREAS, the Town has need to amend its current code regarding Wireless Communications Facilities to be consistent with Federal and State Law; and

WHEREAS, in furtherance of the best interests of the Town and the preservation and protection of the health, safety, prosperity, security, and general welfare of residents and landowners, the Town Board of Trustees desires to amend Sections 16-1-210, 16-2-210, 16-2-390, 16-2-470 and 16-2-525, and adopt a new Division 9 of Article II, Chapter 16 of the Town Code as described herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF
THE TOWN OF BENNETT, COLORADO:**

Section 1. The following definition in Section 16-1-210 is hereby deleted (words to be deleted are stricken through):

~~Ancillary utility structures and equipment buildings means equipment, including buildings and cabinets, used to protect and enable operation of radio switching equipment, backup power and other devices, but not including antennas, that is necessary for the operation of telecommunication facilities.~~

Section 21. The following definitions in Sections 16-1-210 and 16-2-210 of the Bennett Municipal Code are hereby Definitions, are amended or added to read as follows (words to be added are underlined; words to be deleted are stricken through):

16-~~21~~-210 Definitions

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Alternative Tower Structure means any man-made trees, clock towers, bell steeples, light poles, water towers, farm silos, or similar alternative design mounting structures that conceal where technically feasible the presence of WCFs to make them architecturally compatible with the surrounding area pursuant to Division 9 of Article II. A stand-alone pole in the Right-of-Way that accommodates Small Cell Facilities is considered an Alternative Tower Structure provided it meets the concealment standards of Division 9 of Article II. Alternative Tower Structures are not considered Towers, for the purposes of Division 9 of Article II.

~~Ancillary utility structures and equipment buildings means equipment, including buildings and cabinets, used to protect and enable operation of radio switching equipment, backup power and other devices, but not including antennas, that is necessary for the operation of telecommunication facilities.~~

Antenna means any device used to transmit and/or receive radio or electromagnetic waves such as, but not limited to panel antennas, reflecting discs, microwave dishes, whip antennas, directional and non-directional antennas consisting of one or more elements, multiple antenna configurations, or other similar devised and configurations.

Base Station means a structure or equipment, other than a tower and equipment associated with a tower, at a fixed location that enables FCC licensed or authorized wireless communications between user equipment and a communications network. The term includes any equipment associated with wireless communications services, including radio receivers, antennas, coaxial or fiber optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration (inclusive of Distributed Antenna Systems and small cell networks). The term also includes any structure, other than a tower, to which any of the equipment described herein is attached, without limitation:

A. Equipment associated with wireless communications services such as private broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul that, at the time the relevant application is filed with the Town under Division 9 of Article II, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplied, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks) that, at the time the relevant application is filed with the Town under Division 9 of Article II, has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

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The definition of Base Station does not include any structure that, at the time the relevant application is filed with the Town under Division 9 of Article II, does not support or house equipment described in paragraphs A and B above.

Camouflage or Camouflage Design Techniques means any measures used in the design and siting of Wireless Communication Facilities with the intent to minimize or eliminate the visual impact of such facilities to surrounding uses. A WCF Site utilizes Camouflage Design Techniques when it (i) is integrated as an architectural feature of an existing structure such as a cupola, or (ii) is integrated in an outdoor fixture such as a water tank, while still appearing to some extent as a WCF. This definition does not include the use of Concealment design elements so that a facility looks like something other than a wireless Tower or Base Station.

Concealment means utilization of elements of stealth design in a facility so that the facility looks like something other than a wireless Tower or Base Station. Language such as "stealth," "camouflage," or similar in any permit or other document required by the Town Code is included in this definition to the extent such permit or other document reflects an intent at the time of approval to condition the site's approval on a design that looks like something else. Concealment can further include a design which mimics and is consistent with the nearby natural, or architectural features (such as an artificial tree), or is incorporated into (including without limitation, being attached to the exterior of such facility and painted to match it) or replaces existing permitted facilities (including without limitation, stop signs or other traffic signs or freestanding light standards) so that the presence of the WCF is not apparent. This definition does not include conditions that merely minimize visual impact but do not incorporate Concealment design elements so that the facility looks like something other than a wireless Tower or Base Station.

Collocation

A. For the purposes of Eligible Facilities Requests, means the mounting or installation of transmission equipment on an Eligible Support Structure for the purpose of transmitting and /or receiving radio frequency signals for communications purposes.

B. For the purposes of facilities subject to shot clocks governed by 47 U.S.C. Sec. 332, means attachment of facilities to existing structures, regardless of whether the structure or location has previously been zoned for wireless facilities.

Eligible telecommunications facilities Request means a request for approval of the modification of an Existing Tower or Base Station that involves the collocation of new transmission equipment, the removal of transmission equipment, or the replacement of transmission equipment, does not Substantially Change the physical dimensions of such Tower or Base Station involving:

- A. Collocation of new Transmission Equipment.
- B. Removal of Transmission Equipment.
- C. Replacement of Transmission Equipment.

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A request for modification of an Existing Tower or Base Station that does not comply with the generally applicable building, structural, electrical, and safety codes or with other laws codifying objective standards reasonably related to health and safety, or does not comply with any relevant federal requirements, is not an Eligible Facilities Request.

Eligible Support Structure means any Tower or Base Station as defined in this Section, provided that it is Existing at the time the relevant application is filed with the Town under Division 9 of Article II.

Equipment Cabinets mean a cabinet or building used to house equipment used by telecommunication providers at a Wireless Communications Facility. This definition does not include relatively small electronic components, such as remote radio units, radio transceivers, amplifiers, or other devices mounted behind antennas, if they are not used as physical containers for smaller, distinct devices.

Existing means, for purposes of Division 9 of Article II, a constructed Tower or Base Station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an Eligible Facilities Request, provided that a Tower that exists as a legal, non-conforming use and was lawfully constructed is existing for purposes of this definition.

OTARD means an over-the-air receiving device.

OTARD Antenna means

- A. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter; or
- B. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement; or
- C. An antenna that is designed to receive television broadcast signals.

OTARD antenna structure means any pole, Tower, or other structure designed and intended to support an OTARD Antenna.

Related Accessory Equipment means the Transmission Equipment customarily used with, and incidental to Wireless Communication Facilities antennas, including by way of example, coaxial or fiber-optic cable, regular and backup power supply and remote radio units.

Right-of-Way means, in the context of Division 9 of Article II, any public street or road that is dedicated to public use for vehicular traffic.

Site in the context of Division 9 of Article II for Towers and Eligible Support Structures, a Site means the current boundaries of the leased or owned property surrounding the Tower or Eligible Support Structure and any access or utility easements currently related to the Site. For

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Alternative Tower Structures, Base Stations and Small Cell Facilities in the Right-of-Way, a Site is further restricted to that area comprising the base of the structure and to other Related Accessory Equipment already installed on the ground.

Small Cell Facility means a WCF where each antenna is located inside an enclosure of no more than three (3) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three (3) cubic feet; and primary equipment enclosures are no larger than seventeen (17) cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

Substantial change means a modification to an existing tower or base station under the following circumstances that changes the physical dimensions of an Eligible Support Structure such that after the modification, the structure meets any of the following criteria:

a. A substantial change in the height of an existing tower or base station occurs as follows:

A. For a Towers, outside a public right of way, when the height of the tower is it increased the height of the Tower by more than ten percent (10%), or by the height of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna; for other Eligible Support Structures, it increases the height of the structure by more than ten percent or more than ten (10) feet, whichever is greater, as measured from the top of an existing antenna to the bottom of a proposed new antenna;

2. For a tower located in a public right of way or for a base station, when the height of the structure increases by more than ten percent (10%) or by more than ten (10) feet, whichever is greater.

b. Changes in height are measured as follows:

1. When deployments are separated horizontally, changes in height shall be measured from the original support structure, not from the height of any existing telecommunications equipment.

2. When deployments are separated vertically, changes in height shall be measured from the height of the tower or base station, including any appurtenances, as the tower or base station existed on February 22, 2012.

c. A substantial change in the width of an existing tower or base station occurs as follows:

1. For a tower outside of public rights of way, when the addition of an appurtenance to the body of the tower protrudes from the edge of the tower more than twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater.

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- ~~2. For a tower located in a public right of way or for a base station, when the addition of an appurtenance to the body of the structure would protrude from the edge of the structure by more than six (6) feet.~~

B. For Towers, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for Eligible Support Structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

- ~~d. A substantial change also occurs for an existing tower in a public right of way or an existing base station as follows:~~

- ~~1. When the change involves the installation of any new equipment cabinets on the ground, if no ground cabinets presently exist; or~~
- ~~2. When the change involves the installation of ground cabinets that are more than ten percent (10%) larger in height or overall volume than any existing ground cabinets.~~

C. For any Eligible Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, as determined on a case-by-case basis based on the location of the Eligible Support Structure but not to exceed four cabinets per application; or for Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;

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- ~~e. A substantial change also occurs for any existing tower or base station when any of the following are found:~~

- ~~1. When the change involves installation of more than the standard number of new equipment cabinets for the technology involved, or more than four (4) new cabinets, whichever is less.~~
- ~~2.~~

D. When the change entails any excavation or deployment more than thirty feet in any direction outside the current site.

~~3.~~

E. When the change would defeat the concealment elements of the Eligible Support Structure by causing a reasonable person to view the structure's intended stealth design as no longer effective;

~~4.~~

F. For any Eligible Support Structure, it ~~When the change does not comply with record evidence of conditions associated with the original siting approval of the construction or modification of the tower, base station~~ Eligible Support Structure or Base Station equipment. This limitation does not apply if unless the noncompliance is due to an increase in

height, increase in width, addition of cabinets, or new excavation that would not exceed the thresholds identified in above paragraphs A, B, C and D of this definition.

For purposes of determining whether a Substantial Change exists, changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height are measured from the dimensions of the Tower or Base Station, inclusive of approved appurtenances and any modifications that were approved prior to February 22, 2012.

~~*Telecommunications facilities* means radio or television broadcasting towers, telecommunications towers, and antenna dish arrays (freestanding or tower mounted). A telecommunication facility does not include residential television antennas, satellite dish antennas, or amateur radio antennas.~~

Tower means a structure that is designed and built for the sole or primary purpose of supporting any FCC licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communication services including, but not limited to, private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul and the associated site. The term includes radio and television transmission towers, self-supporting lattice towers, guy towers, monopoles, microwave towers, common carrier towers, cellular telephone towers and the like. Alternative Tower Structures and Small Cell Facilities in the Rights-of-Way are not Towers.

Transmission Equipment means any Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

| *Wireless Communications Facility or WCF* means a facility used to provide personal wireless services as defined at 47 U.S.C. Section 332 (c)(7)(C); or wireless information services provided to the public or to such classes of users as to be effectively available directly to the public via licensed or unlicensed frequencies; or wireless utility monitoring and control services. A WCF does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and that is otherwise permitted under other provisions of the Code. A WCF includes an antenna or antennas, including without limitation, directions, omni-directions and parabolic antennas, Base Stations, support equipment, Small Cell Facilities, Alternative Tower Structures, and Towers. It does not include the support structure to which the WCF or its components are attached if the use of such structures for WCFs is not the primary use. The term does not include mobile transmitting devices used by wireless service subscribers, such as vehicle or handheld radios/telephones and their associated transmitting antennas, nor does it include other facilities specifically excluded from the coverage of this Section.

Section 32. Section 16-2-390 of the Bennett Municipal Code is repealeddeleted in its entirety.

Section 4, Chapter 16, and Article II2 of the Bennett, Zoning, is amended by the addition of a to create a new Division 9 to read as follows (words to be added are underlined):

Division 9 Wireless Telecommunications Facilities

16-29-9410 Purpose and Goals. The purpose of these provisions is to establish requirements for the siting of Wireless Communications Facilities (WCFs). The goals of these provisions are to:

- (a) Provide for the managed development and installation, maintenance, modification, and removal of wireless communications infrastructure in the Town with the fewest number of WCFs to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services including all of those who install, maintain, operate, and remove WCFs.
- (b) Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including but not limited to concealment design techniques and undergrounding of WCFs and the equipment associated therewith.
- (c) Encourage the deployment of smaller, less intrusive WCFs to supplement existing larger WCFs.
- (d) Encourage the use of wall mounted panel antennas.
- (e) Encourage roof mounted antennas only when wall mounted antennas will not provide adequate service or are not otherwise feasible.
- (f) Encourage the location of Towers in non-residential areas, in a manner that minimizes the total number of Towers needed throughout the community.
- (g) Encourage strongly the collocation of WCFs on new and existing Sites.
- (h) Encourage owners and users of Antennas and Towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimized.
- (i) Enhance the ability of wireless communications service providers to provide such services to the community quickly, effectively, and efficiently.
- (j) Effectively manage Small Cell WCFs in the Right-of-Way.

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16-29-9420 Applicability; Waiver; Exemptions. The requirements set forth in this Section shall apply to all WCF applications for Base Stations, Alternative Tower Structures, Alternative Tower Structures located within Right-of-Way, and Towers as defined in Section 16-2-210. The Town shall have the authority to waive any requirement or standard set forth in this Section, if the Town makes a determination that the specific requirement or standard is preempted by federal or state law. Prior to applying the waiver to any pending application, the Town shall, in consultation with the Town ~~Manager~~ Administrator and Town Attorney, make a written preemption determination which written determination shall identify the specific requirement or standard that is being waived and cite to the specific federal or state law provision that preempts the specific Town requirement or standard set forth in this Section. The requirements set forth in this Section shall not apply to:

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- (a) *Amateur Radio Antennas.* Amateur radio antennas that are owned and operated by a federally licensed amateur radio station operator or are used exclusively for receive-only antennas, provided that the requirement that the height be no more than the distance from the base of the antenna to the property line is met. The Town Administrator or his or her designee has the authority to approve modifications to the height restriction, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.
- (b) *Pre-existing WCFs.* Any WCF for which a permit has been properly issued prior to July 1, 2017, shall not be required to meet the requirements of this Section, other than the requirements of subsections 16-29-9430(a), (e) and (f) below. Changes and additions to pre-existing WCFs (including trading out of antennas for an equal number of antennas) shall meet applicable requirements of this Section.
- (c) *Miscellaneous Antennas.* Antennas used for reception of television, multi-channel video programming and radio such as OTARD antennas, television broadcast band antennas, and broadcast radio antennas, provided that the requirement that the height be no more than the distance from the base to the property line are met. The Town ~~Manager~~ Administrator or her/his designee has the authority to approve modifications to the height restriction related to OTARD antennas and OTARD antenna structures, if in the reasonable discretion of the Town, modifications are necessary to comply with federal law.

16-29-9430 Operational Standards.

- (a) *Federal Requirements.* All WCFs shall meet the current standards and regulations of the FAA, the FCC and any other agency of the federal government with the authority to regulate WCFs. If such standards and regulations are changed, then the owners of the WCF governed by this Section shall bring such facility into compliance with such revised standards and regulations within the time period mandated by the controlling federal agency. Failure to meet such revised standards and regulations shall constitute grounds for the removal of the WCF at the owner's expense.

- (b) *Radio Frequency Standards.* All WCFs shall comply with federal standards for radio frequency emissions. If concerns regarding compliance with radio frequency emissions standards for a WCF have been made to the Town, the Town may request that the owner or operator of the WCF provide information demonstrating compliance. If such information is not sufficient, in the reasonable discretion of the Town, to demonstrate compliance, the Town may request and the owner or operator of the WCF shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject Site, and which compares the results with established federal standards. If, upon review, the Town finds that the facility does not meet federal standards, the Town may require corrective action within a reasonable period of time, and if not corrected, may require removal of the WCF pursuant to subsection (a) above. Any reasonable costs incurred by the Town, including reasonable consulting costs to verify compliance with these requirements, shall be paid by the owner or operator of the Site.
- (c) *Signal Interference.* All WCFs shall be designed and sited so as not to cause interference with the normal operation of radio, television, telephone and other communication services utilized by adjacent residential and non-residential properties; nor shall any such facilities interfere with any public safety communications. The Applicant shall, at the time of application, provide a written statement ("Signal Interference Letter") from a qualified radio frequency engineer, certifying that a technical evaluation of existing facilities and the proposed WCFs indicates no potential interference problems. The Town shall be permitted to monitor interference levels with public safety communications during the construction and operational phases for any WCF site.
- (d) *Legal Access.* In all applications for WCFs outside of the Right-of-Way, an Applicant shall demonstrate that it owns or has lease rights to the Site.
- (e) *Operation and Maintenance.* To ensure the structural integrity of WCFs, the owner and operator of a WCF shall ensure that it is maintained in compliance with standards contained in applicable local building and safety codes. If upon inspection, the Town determines that a WCF fails to comply with such codes and constitutes a danger to persons or property, then, upon written notice being provided to the owner and/or operator of the WCF, the owner and operator shall have thirty (30) days from the date of notice to bring such WCF into compliance. Upon good cause shown by the owner or operator, the Town may extend such compliance period not to exceed ninety (90) days from the date of said notice. If the owner or operator fails to bring such WCF into compliance within said time period, the Town may remove such WCF at the owner's and operator's expense. No hazardous materials shall be permitted in association with WCFs, except those necessary for the operations of the WCF and only in accordance with all applicable laws governing such materials.
- (f) *Abandonment and Removal.*
- (1) WCFs which are not in use for communications purposes or which are deemed abandoned under subsection (2) below, for a period of six (6) consecutive months, shall

be removed by the WCF owner. Removal shall occur within ninety (90) calendar days of the end of said six-month period. Upon removal, the site shall be revegetated to substantially the condition it was in prior to the existence of the telecommunications facility.

(2) WCFs shall be deemed abandoned if one (1) or more of the following conditions exist:

- a. Power service is disconnected;
- b. All of the equipment required for transmission has been removed from the site; or
- c. The WCF owner has lost ownership, lease rights or other legal authority to use the property for purposes of operating a WCF, and the site has not been legally transferred to another entity possessing such authority.

(3) In the event that the owner fails to remove the abandoned WCF within the time specified in subsection (1) above, the Town is hereby authorized to remove or cause the removal of the abandoned WCF without any liability for trespass. All costs incurred by the Town, including an administrative cost equal to twenty-five percent (25%) of all direct costs, shall be charged as a lien against such real property and the owners thereof.

(4) If the amount specified in subsection (3) above is not paid within thirty (30) calendar days of invoicing, the Town shall have the right to seek collection of any amount due, plus statutory interest and any and all costs of collection, including but not limited to its attorney's fees, through institution of an action at law or in equity.

(5) If the WCF owner intends to abandon or cease use of a WCF, the owner shall notify the Zoning Administrator, in writing, of such intent within thirty (30) days of such decision, and in no event later than the date of abandonment.

16-29-9140 Design Standards. The Town shall adopt and make available administrative regulations describing Design Standards regarding WCFs and related infrastructure, and no new WCFs shall be constructed unless they comply with such Design Standards.

16-29-9150 Review Procedures and Requirements. No new WCF shall be constructed and no Collocation or modification to any WCF may occur except after a written request from an Applicant, reviewed and approved by the Town in accordance with this Section. WCFs are allowed as either a conditional or permitted use in the zone districts as shown in the Land Use Table in Section 16-2-470, except that Eligible Facilities Requests are allowed as a permitted use in all zoning districts subject to the provisions of this Division 9. All WCFs, except Eligible Facilities Requests, shall be reviewed pursuant to the following procedures:

(a) Submittal Requirements. Each Applicant for a WCF shall be required to submit a _____.

(1) Completed review application form;

(2) Submittal Fee;

- (3) Signal Interference Letter (Section 16-29-9430(c));
- (4) Inventory of Existing Sites (subsection (b) below); and
- (5) Any other information deemed necessary by the Town to determine compliance with this Section.

(b) *Inventory of Existing Sites.* Each Applicant for a WCF shall provide to the Town a narrative and map description of the Applicant's existing or then currently proposed WCFs within the Town, and outside of the Town within one mile of its boundaries. In addition, the Applicant shall inform the Town generally of the areas of the Town in which it believes WCFs may need to be located within the next three years. The inventory list should identify the Site name, Site address, and a general description of the facility (e.g., rooftop antennas and ground mounted equipment). This provision is not intended to be a requirement that the Applicant submit its business plan, proprietary information, or make commitments regarding locations of WCFs within the Town. Rather, it is an attempt to provide a mechanism for the Town and all Applicants for WCFs to share general information, assist in the Town's comprehensive planning process, and promote collocation by identifying areas in which WCFs might be appropriately constructed for multiple users.

The Town may share such information with other Applicants applying for administrative approvals or conditional permits under this Section or other organizations seeking to locate WCFs within the jurisdiction of the Town, provided however, that the Town is not, by sharing such information, in any way representing or warranting that such Sites are available or suitable.

(c) *Applications for Base Stations, Alternative Tower Structures, and Alternative Tower Structures within Right-of-Way.* In all zoning districts, and ~~p~~Planned ~~d~~Developments, each application for a Base Station, Alternative Tower Structure, or Alternative Tower Structure within Right-of-Way shall be reviewed and considered for approval by the Town for conformance to this Section. Except for Small Cell WCFs in the Right-of-Way that meet all requirements of this Section or Eligible Facilities Requests, the Town may refer the application to ~~Zoning Administrator and~~ Board of Trustees for approval if the Town finds the proposed WCF to have a significant visual impact (e.g., proximity to historic or designated view corridors, or on significant community features) or otherwise is substantially incompatible with the structure on which the WCF will be installed, or it does not meet the clear intent of this Section.

(d) *Applications for Towers.* In all zoning districts and ~~p~~Planned ~~d~~Developments, Towers may be permitted only as a conditional use. Such Towers shall be reviewed for conformance to this Section using the use by conditional review procedures set forth in Section 16-2-330 of the Town Code in conjunction with the applicable sections of this Section. All applications for Towers shall demonstrate that other alternative design options such as Base Stations or Alternative Tower Structures are not viable options.

(e) *Administrative Review Procedures for Eligible Facilities Requests.*

(1) Application. In all zoning districts and pPlanned dDevelopments, Eligible Facilities Requests for collocation on or modification of an Existing Tower or Base Station shall be considered a use permitted by right subject to administrative review and determination by the Town. The Zoning Administrator shall prepare, and from time to time revise and make publicly available, an application form which shall be limited to the information necessary for the Town to consider whether an application for collocation or modification is an Eligible Facilities Request. The application may not require the Applicant to demonstrate a need or business case for the proposed modification or collocation. Application information may include, without limitation, whether the project:

- a. Would result in a Substantial Change;
- b. Violates a generally applicable building, structural, electrical, or safety code or other law codifying objective standards reasonably related to public health and safety.

(2) Type of Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this Section, the Zoning Administrator shall review such application to determine whether the application so qualifies.

(3) Timeframe for Review. Subject to the tolling provisions of subparagraph (4) below, within sixty (60) days of the date on which an Applicant submits an application seeking approval under this Section, the Zoning Administrator shall approve the application unless it determines that the application is not covered by this Section. If the application does not qualify as an Eligible Facilities Request, the denial of the application shall be in writing and shall set forth the reasons for the Zoning Administrator's decision.

(4) Tolling of the Timeframe for Review. The sixty (60) day review period begins to run when the application is filed, and may be tolled only by mutual agreement of the Town and the Applicant, or in cases where the Zoning Administrator determines that the application is incomplete:

- a. To toll the timeframe for incompleteness, the Zoning Administrator must provide written notice to the Applicant within thirty (30) days of receipt of the application, specifically delineating all missing documents or information required in the application;
- b. The timeframe for review begins running again when the Applicant makes a supplemental written submission in response to the Zoning Administrator's notice of incompleteness; and
- c. Following a supplemental submission, the Zoning Administrator will notify the Applicant within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in subsection 4(a) of this subsection (e). In the case of a second or subsequent notice of incompleteness, the Zoning Administrator may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(5) Failure to Act. In the event the Town fails to act on a request seeking approval for an Eligible Facilities Request under this Section within the timeframe for review (accounting

for any tolling), the request shall be deemed granted. The deemed grant of approval becomes effective when the Applicant notifies the Town in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(6) Interaction with Telecommunications Act Section 332(c)(7). If the Zoning Administrator determines that the Applicant's request is not an Eligible Facilities Request as delineated in this Section, the Applicant shall be advised as to the relevant provisions of the Town Code that govern the process to consider the request, and any additional information that may be required to be submitted in order for the request to be considered complete. If the Applicant subsequently indicates an intent for the proposal to be considered under the relevant section of the Town Code and submits all required information the presumptively reasonable timeframe under Section 332(c)(7), as set forth in applicable federal and state law, will begin to run from the issuance of the submittal of the Applicant's complete information.

(f) Abandonment and Removal. Prior to approval, affidavits shall be required from the owner of the property and from the Applicant acknowledging that each is responsible for the removal of a WCF, including Related Accessory Equipment, that is abandoned or is unused for a period of six months.

(g) Decision. Any decision to approve, approve with conditions, or deny an application for a WCF shall be in writing, supported by substantial evidence in a written record, and shall be provided to the Applicant within ten (10) days of the decision. ~~The Zoning Administrator may condition the approval of an Eligible Facilities Request on compliance with generally applicable building, structural, electrical and safety codes or with other laws codifying objective standards reasonably related to public health and safety.~~ If the approval is for a concealed WCF, the written decision shall specifically identify that the WCF is a concealed facility.

(h) Compliance with Applicable Law. Notwithstanding the approval of an application for collocation or an Eligible Facilities Request as described herein, all work done pursuant to WCF applications must be completed in accordance with all applicable building, structural, electrical and safety requirements as set forth in the Town Code, and any other applicable regulations. In addition, all WCF applications shall comply with the following:

(1) Comply with any permit or license issued by a local, state, or federal agency with jurisdiction of the WCF;

(2) Comply with easements, covenants, conditions and/or restrictions on or applicable to the underlying real property;

(3) Be maintained in good working condition and to the standards established at the time of application approval or as otherwise required by applicable law; and

(4) Remain free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage shall be repaired as soon as practicable, and in no instance more than ten (10)

days from the time of notification by the Town or after discovery by the owner or operator of the Site.

- (i) Compliance Report. Upon request by the Town, the Applicant shall provide a compliance report within forty-five (45) days after installation of a WCF, demonstrating that as installed and in operation, the WCF complies with all conditions of approval, applicable Town requirements and regulations.

16-29-9460 Standards for Approval. No WCF, including Related Accessory Equipment, shall be approved unless it meets the following approval criteria:

- (a) Visual impacts are minimized and view corridors are protected to the greatest extent feasible.
- (b) Unless a Tower site, or otherwise waived pursuant to this Section, the WCF utilizes concealment design techniques to avoid adverse impacts on the surrounding area, by ensuring that the facility looks like something other than a Tower or Base Station;
- (c) The WCF meets the applicable design standards for the type of WCF in accordance with Section 16-29-9440, Design Standards and the regulations adopted pursuant thereto; and
- (d) The WCF is and will be operated at all times in accordance with Section 16-29-9430.
- (e) The Town's intent is to have several providers use the same structure or site to keep the number of WCFs to a minimum as a means of reducing the overall visual impacts throughout the community. If collocation is a feasible alternative to the construction of a new Tower, then collocation is required.
- (f) If it is practical to attach WCFs to water towers, existing transmission towers, or existing buildings, or light poles or utility poles, then such locations shall be used instead of new Towers.
- (g) WCFs that are attached to existing Base Stations are subject to the following requirements:
- (1) Facade-mounted facilities (antenna mounted on the side of a building) may not extend above the parapet wall, or, in the case of a pitched roof, above the fascia.
- (2) The maximum height of a WCF that is mounted on a rooftop is the shorter of:
- a. Twenty (20) feet taller than the building to which it is attached; or
b. Ten (10) feet taller than the maximum height allowed in the zone for a principal building.
- (3) Rooftop antennas shall either be:

- a. Mounted to a penthouse;
- b. Set back such that they are not visible from ground level on adjacent rights-of-way or residential uses at a distance of one hundred (100) feet or less; or
- c. Reasonably screened from ground level view, and designed in a manner which is compatible with the materials, colors, and architectural details of the existing building or structure.

(4) Equipment that does not depend upon an elevated location to operate shall be located:

- a. Within a building;
- b. Within an underground enclosure; or
- c. Within an enclosure at ground level which is screened from view from all abutting properties, streets, and trails.

(h) Telecommunication towers are subject to the following requirements:

(1) The minimum setback shall be the setback applicable to principal structures in the zone in which the tower is located, plus one (1) foot per foot that a tower extends above the maximum building height for the zoning district.

(2) Towers shall be nonreflective, unpainted galvanized steel or painted neutral colors or such shades that are appropriate and compatible with the surrounding environment.

(3) No lighting shall be permitted on Towers except that required by the Federal Aviation Administration (FAA).

Section 53. Section 16-2-470 of the Bennett Municipal Code, Land Uses, Category L of the Land Use chart is amended to read as follows:

L. UTILITIES AND TELECOMMUNICATIONS										
(1) Overhead electric transmission lines and distribution feeder lines over 110 kV	C	C	C	C	C	C	C	C	C	C
(2) Public utilities, major	C							C	P	P
(3) Public utilities, minor	P	P	P	P	P	P	P	P	P	P
(4) Telecommunications facilities, including towers	C	C	C	C	C	C	C	C	C	C
(5) <u>WCF attachments to Base Stations and Alternative Tower Structures</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
(5) Eligible Telecommunications Facilities Request	P	P	P	P	P	P	P	P	P	P

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Section 64. Section 16-2-525 of the Bennett Municipal Code, Telecommunications Facilities, is ~~deleted~~ repealed in its entirety.

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Section 75. Miscellaneous

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- (a) *Severability.* If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.
- (b) *Codification Amendments.* The codifier of the Town Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Town Code.
- (c) *Repeal.* All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.
- (d) *Effective Date.* This Ordinance shall take effect and be in force thirty (30) days after publication. _____

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED BY
TITLE ONLY this _____ day of _____, 2022.

Royce Pindell, Mayor

ATTEST: _____

Christina Hart, Town Clerk

TOWN OF BENNETT
DESIGN STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES

The requirements set forth in these Design Standards are adopted pursuant to Section 16-~~29-94~~40 of the Town Code and shall apply to the location and design of all WCFs governed by Section 16-~~29-94~~10, et seq. of the Town Code; provided, however, that the Town may waive any one or more of these requirements if it determines that the goals of this Section are better served thereby. WCFs shall be designed and located to minimize the impact on surrounding properties and residential neighborhoods and to maintain the character and appearance of the Town. Capitalized terms in these Design Standards are as defined in the Town Code. In the case of any conflicts between the provisions of these Standards and the Town Code, the Code shall prevail.

- A. *Camouflage/Concealment.* All WCFs and any Related Accessory Equipment shall, to the maximum extent possible, use Concealment Design Techniques, and where not possible utilize Camouflage Design Techniques.
1. Where WCFs are located in areas of high public visibility, they shall, where physically possible, be designed to be Concealed, and where not possible to be Concealed, Camouflaged to minimize the WCF profile through placement of equipment fully or partially underground, or by way of example and not limitation, behind landscape berms.
 2. A Concealment design may include the use of Alternative Tower Structures should the Town determine that such design meets the intent of the Code and the community is better served thereby.
 3. All WCFs, such as antennas, vaults, equipment rooms, equipment enclosures, and Towers shall be constructed of non-reflective materials (visible exterior surfaces only).
- B. *Siting.*
1. No portion of any WCF may extend beyond the property line.
 2. WCFs shall be required to be designed and constructed to permit the facility to accommodate WCFs from at least two wireless service providers on the same WCF unless the Town approves an alternative design. No WCF owner or operator shall unfairly exclude a competitor from using the same facility or Site.
 3. WCFs shall be sited in a location that does not reduce the parking for the other principal uses on the parcel below Code standards.
 4. WCFs shall not encroach into any sight triangles.
- C. *Lighting.* WCFs shall not be artificially lighted, unless required by the FAA or other applicable governmental authority, or the WCF is mounted on a light pole or other similar structure primarily used for lighting purposes. If lighting is required, the Town may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Lighting shall be shielded or directed to the greatest extent possible so as to minimize the amount of glare and light falling onto nearby properties, particularly residences.

D. *Landscape and Fencing Requirements.*

1. WCFs shall be sited in a manner that does not reduce the landscaped areas for the other principal uses on the lot or parcel, below any applicable Code standards including without limitation, Planned Development standards.
2. The Site of the WCF shall be landscaped with a buffer of plant materials that effectively screen the view of the WCF from adjacent residential property. The standard buffer shall consist of the front, side, and rear landscaped setback on the perimeter of the Site.
3. In locations where the visual impact of the WCF would be minimal, the landscaping requirement may be reduced or waived in whole or in part by the Town.
4. Existing mature tree growth and natural landforms on the Site shall be preserved to the maximum extent possible. In some cases, such as WCFs sited on large, wooded lots, natural growth around the Site perimeter may be sufficient to buffer.
5. No trees larger than four (4) inches in diameter measured at 4½ feet high on the tree may be removed, unless authorized by the Town. To obtain such authorization the Applicant shall show that tree removal is necessary, the Applicant's plan minimizes the number of trees to be removed and any trees removed are replaced at a ratio of 2 to 1.

E. *Specific Design Requirements.*

Additional design requirements shall be applicable to the types of WCFs as specified below:

1. *Base Stations* –
 - a. Base Stations shall be architecturally compatible with respect to attachments, and WCFs shall be colored to match the building or structure to which they are attached;
 - b. The maximum protrusion of such facilities from the building or structure face to which they are attached shall be two (2) feet;
 - c. Wall mounted WCFs shall not extend above the roofline unless mounted to a penthouse; and
 - d. Roof mounted WCFs shall be approved only where an Applicant demonstrates a wall mounted WCF is inadequate to provide service and shall be evaluated for approval based upon the following criteria:
 - i. Height is no more than twenty (20) feet taller than the building to which it is attached; or
 - ii. Ten (10) feet taller than the maximum height allowed in the zone for a principal building.
 - iii. Other roof mounted Related Accessory Equipment shall extend no more than seven (7) feet above any parapet of a flat roof upon which they may be placed, and shall not be permitted on a sloped roof.

iv. Roof mounted WCFs must additionally be mounted to a penthouse, set back such that they are not visible from ground level on adjacent rights-of-way or residential uses at a distance of one hundred (100) feet or less, or reasonably screened from ground level view, and designed in a manner which is compatible with the materials, colors, and architectural details of the existing building or structure.

2. *Alternative Tower Structures (ATS) and Small Cell Facilities –*

- a. ATS shall be designed and constructed to look like a building, facility, or structure typically found in the area, in order that the WCF is concealed.
- b. Height or size of the proposed ATS or Small Cell Facility should be minimized as much as possible and shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of ~~forty-five~~ (45) feet;
- c. ATS shall be sited in a manner that is least obtrusive to residential structures and residential district boundaries;
- d. ATS should take into consideration the uses on adjacent and nearby properties and the compatibility of the facility to these uses;
- e. ATS and Small Cell Facilities shall be compatible with the surrounding topography, tree coverage, and foliage;
- f. ATS and Small Cell Facilities shall be designed utilizing design characteristics that have the effect of concealing where technically feasible and generally reducing or eliminating visual obtrusiveness; and
- g. Visual impacts of the proposed ingress and egress shall be minimized.

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3. *Alternative Tower Structures and Small Cell Facilities located in the Right-of-Way –*

- a. No ATS pole shall be higher than forty-five (45) feet including any cannister or antennas located on top of a pole;
- b. No pole or structure shall be more than ten (10) feet higher (as measured from the ground to the top of the pole or structure) than any existing utility or traffic signal within five hundred (500) feet of the pole or structure;
- c. Any new pole for ATS or stand-alone Small Cell Facilities shall be separated from any other existing stand-alone WCF facility by a distance of at least six hundred (600) feet;
- d. With respect to pole-mounted components, Small Cell Facilities shall be located on an existing utility pole serving another utility; or be located on a new utility pole where other utility distribution lines are aerial, if there are no reasonable alternatives;
- e. ATS must be concealed consistent with other existing natural or manmade features in the Right-of-Way near the location where the ATS will be located;
- f. To the extent reasonably feasible, be consistent with the size, color and shape of the pole-mounted equipment installed by communications or utility companies on utility poles near the ATS;

- g. When placed near a residential property, any ATS or Small Cell Facilities must be placed in front of the common side yard property line between adjoining residential properties. In the case of a corner lot, the facility must be placed in front of the common side yard property line adjoining residential properties, or on the corner formed by two intersecting streets;
- h. Small Cell Facilities shall:
 - i. be designed such that antenna installations on traffic signals are placed in a manner so that the size, appearance, and function of the signal will not be considerably altered;
 - ii. be designed such that all antennas, mast arms, equipment, and other facilities are sized to minimize visual clutter, and where possible, concealed within the structure;
 - iii. be consistent with the size and shape of the pole-mounted equipment installed by communications companies on utility poles near the ATS;
 - iv. require that any ground mounted equipment be installed in an underground or partially underground equipment vault (projecting not more than thirty-six (36) inches above grade), or co-located within a traffic cabinet of a design approved by the Town, unless a use by special review is obtained subject to the requirements of the Town Code;
 - v. not alter vehicular circulation or parking within the Right-of-Way or impede vehicular, bicycle, or pedestrian access or visibility along the Right-of-Way;
 - vi. comply with the Americans With Disabilities Act and all applicable local, state, and federal law and regulations; and
 - vii. not be located or maintained in a manner that causes unreasonable interference. Unreasonable interference means any use of the Right-of-Way that disrupts or interferes with its use by the Town, the general public, or other person authorized to use or be present upon the Right-of-Way, when there exists an alternative that would result in less disruption or interference. Unreasonable interference includes any use of the Right-of-Way that disrupts vehicular or pedestrian traffic, any interference with public utilities, and any other activity that will present a hazard to public health, safety, or welfare.

Commented [ksf2]: Not sure if this is the correct process

Commented [MC3]: Let's discuss this.

4. *Towers -*

- a. Towers shall either maintain a galvanized steel finish, or, subject to any applicable FAA standards, be painted a neutral color so as to reduce visual obtrusiveness as determined by the Town;
- b. Tower structures should use existing landforms, vegetation, and structures to aid in concealing the facility from view or blending in with the surrounding built and natural environment;
- c. Monopole support structures shall taper from the base to the tip;
- d. All Towers shall be enclosed by security fencing or wall at least six (6) feet in height and shall also be equipped with an appropriate anti-climbing

- device. No security fencing or any portion thereof shall consist of barbed wire or chain link material; and
- e. Towers shall be subject to the maximum height restrictions of the zoning district in which they are located, subject to a maximum height limit of _____ () feet.
 - f. Towers should be sited in a manner that is least obtrusive to residential structures and residential district boundaries where feasible;
 - g. Towers should take into consideration the uses on adjacent and nearby properties and the compatibility of the Tower to these uses;
 - h. Towers should be designed utilizing design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - i. Visual impacts of the proposed ingress and egress shall be minimized;
 - j. No new Towers shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Town that no existing WCFs can accommodate the needs that the Applicant proposes to address with its Tower application. Evidence submitted to demonstrate that no existing WCFs can accommodate these needs may consist of the following:
 - i. No existing WCFs are of sufficient height and are located within the geographic area required to meet the Applicant's engineering requirements;
 - ii. Existing WCFs do not have sufficient structural strength to support Applicant's proposed WCF;
 - iii. The Applicant's proposed WCF would cause electromagnetic interference with the WCFs on the existing WCFs or the existing WCFs would cause interference with the Applicant's proposed WCF; or
 - iv. The Applicant demonstrates that there are other limiting factors that render existing WCFs unsuitable for collocation.
 - k. A Tower shall meet the greater of the following minimum setbacks from all property lines:
 - i. The minimum setback shall be the setback applicable to principal structures in the zone in which the tower is located, plus one (1) foot per foot that a tower extends above the maximum building height for the zoning district.
 - ii. Twenty-five (25) percent of the facility height, including WCFs and Transmission Equipment; or
 - iii. The Tower height, including antennas, if the Tower is in or adjacent to a residential district or residential zoned property.
 - iv. Towers over _____ () feet in height shall not be located within one-quarter mile from any existing Tower that is over _____ () feet in height, unless the Applicant has shown to the satisfaction of the Town that there are no reasonably suitable alternative sites in the required geographic area which can meet the Applicant's needs.
 - l. No Towers shall be permitted in the Right of Way.

5. *Related Accessory Equipment* - Related Accessory Equipment for all WCFs shall meet the following requirements:
- a. All buildings, shelters, cabinets, and other accessory components shall be grouped as closely as technically possible;
 - b. The total footprint coverage area of the WCF's Related Accessory Equipment shall not exceed three hundred fifty (350) square feet;
 - c. No Related Accessory Equipment or accessory structure shall exceed twelve (12) feet in height; and
 - d. Related Accessory Equipment shall be located out of sight whenever possible by locating behind parapet walls, within buildings, within underground enclosures or within equipment enclosures at ground level which is screened from view from all abutting properties, streets, and trails. Where such alternate locations are not available, the Related Accessory Equipment shall be concealed where technically feasible or otherwise camouflaged in a manner appropriate for the specific site.

TO: Mayor and Town of Bennett Board of Trustees

FROM: Steve King, Special Projects Coordinator
Taeler Houlberg, Administrative Services Director

DATE: May 24, 2022

SUBJECT: Proposed Amendments to Chapter 8 of the Bennett Municipal Code

Background

As part of the continued review of the Bennett Municipal Code (Code), Staff has proposed amendments to Chapter 8 regarding vehicles and traffic. While these revisions are not part of the 2020 Model Traffic Code (MTC) adoption, which is currently in the approval process, they complement the MTC revisions and are thus presented here.

Several of the Chapter 8 amendments and updates have been proposed because sections were outdated and others needed to be added to meet current traffic needs.

Chapter 8 Proposed Amendments

Article II proposed amendments include:

- An added provision on the authority of the Municipal Court to designate specific offenses and payment of fines under the traffic ordinances.
- The codification of the Town Administrator or their designee's authority to designate street markings, signage and maintenance of municipal roadways. This will allow for flexibility in designation of responsible staff.

Article IV proposed amendments include:

- Updating the designation of specific tasks from the Director of Public Works to the Town Administrator or "a designee."
- Removing a specified fine amount for code violations. This allows the Municipal Court to designate fine amounts administratively, which is a power already granted in the Code.

Article V proposed amendments include:

- An added provision that grants the Town the authority to temporarily restrict parking on any public street or alley for street sweeping, snow removal or other maintenance or repair.
- An added provision that makes it unlawful to stop, stand or park in the driveway access or public right-of-way along Seventh Avenue for Bennett Elementary school, Bennett Middle School and Bennett High School.

Staff Recommendation

Staff would like to receive feedback and suggested revisions from the Board of Trustees for Chapter 8. Pending suggested changes, the final ordinance will be brought before the Board for consideration on June 14, 2022.

Attachments

1. Redline of Chapter 8 of the Bennett Municipal Code

CHAPTER 8

Vehicles and Traffic

ARTICLE II Traffic Enforcement Procedures

Sec. 8-2-10. Definitions.

As used in this Section, the following definitions shall apply:

Charging document means the document commencing or initiating the traffic violation matter, whether denoted as a complaint, summons and complaint, citation, penalty assessment notice or other document charging the person with the commission of a traffic violation.

Defendant means any person charged with the commission of a traffic violation.

Judgment means the admission of guilt or liability for any traffic violation, the entry of judgment of guilt or liability or the entry of default judgment as set forth in this Section against any person for the commission of a traffic violation.

Penalty means the fine and/or imprisonment imposed pursuant to Section 1-4-20 of this Code.

Traffic infraction means a violation of a provision of this Chapter relating to traffic, or any provision of the Model Traffic Code, as adopted or amended by the Town, except those traffic violations as hereinafter defined as traffic offenses.

Traffic offense means the following offenses as set forth in the Model Traffic Code, as adopted and amended by the Town from time to time:

- a. §107 of the Model Traffic Code, Obedience to police or sheriff's officers.
- b. §509 of the Model Traffic Code, Vehicles weighed - excess removed.
- c. §1101 of the Model Traffic Code, Speed limits, where the speed as driven is twenty (20) miles per hour or more over the lawful speed.
- d. §1105 of the Model Traffic Code, Speed contests.
- e. §1401 of the Model Traffic Code, Reckless driving - penalty.
- f. §1402 of the Model Traffic Code, Careless driving - penalty.
- g. §1409 of the Model Traffic Code, Compulsory insurance - penalty.
- h. §1413 of the Model Traffic Code, Eluding or attempting to elude a police officer.
- i. §1903 of the Model Traffic Code, School buses - stops - signs - passing.

Traffic violation means any violation of this Chapter, whether or not such violation is a traffic infraction or traffic offense.

Sec. 8-2-15. Municipal court to designate cases to violations bureau.

The Municipal Court may designate the specified offenses under the traffic ordinances of this municipality and the state traffic laws in respect to which payment of fines may be accepted by the traffic violations bureau in satisfaction thereof, and may specify by suitable schedules the amount of such fines for first, second and subsequent offenses, provided such fines are within the limits declared by law, and may further specify what offenses shall require appearance before the court.

Sec. 8-2-20. Traffic infraction not criminal.

All traffic infractions are deemed and shall constitute civil matters and are not criminal violations.

Sec. 8-2-30. No jury trial for traffic infractions.

A defendant brought to trial solely upon traffic infractions shall have no right to a trial by jury as contemplated by Section 13-10-114, C.R.S., or Rule 223, Municipal Court Rules of Procedure. Trial of all traffic infractions shall be to the Municipal Court. No defendant found liable for a traffic infraction shall be punished by imprisonment for such traffic infraction.

Sec. 8-2-40. Right to jury trial for traffic offenses.

- (a) Any defendant charged with a traffic offense shall have the right to a jury trial upon proper perfection of a jury trial demand pursuant to Rule 223 of the Municipal Court Rules of Procedure.
- (b) In the event a defendant is charged with more than one (1) traffic violation arising out of the same incident and at least one (1) of the charged traffic violations is a traffic offense, the defendant shall have the right to demand a trial by jury as set forth in Subsection (a) above as to all traffic violations, which shall be consolidated for purposes of trial.

Sec. 8-2-50. Commencement of traffic infraction action.

An action charging a traffic infraction is commenced by the tender or service of a charging document upon the defendant, or by conspicuously attaching a parking traffic infraction charging document to the subject vehicle, and by filing the charging document with the Municipal Court.

Sec. 8-2-60. Payment of traffic infraction penalty before appearance.

- (a) The Municipal Court Clerk shall accept payment of a traffic infraction penalty by a defendant without an appearance before the Municipal Court:
 - (1) If payment is made within the period beginning ten (10) days following the date of issuance of the charging document and ending at the close of business the day prior to the date set for first appearance; and
 - (2) If payment is allowable per the fine schedule.
- (b) At the time of payment, which shall include all costs, fees and surcharges regularly assessed by the Municipal Court for defendants pleading or being found guilty of non-civil municipal violations, the defendant shall sign a waiver of rights and acknowledgement of guilt or liability upon a form approved by the Municipal Court.
- (c) This procedure shall constitute an entry in satisfaction of judgment.

Sec. 8-2-70. Traffic infraction first appearance.

- (a) If the defendant has not previously acknowledged guilt or liability and satisfied the judgment as concerns traffic infractions, he or she shall appear before the Municipal Court at the time scheduled for first appearance.
- (b) The defendant may appear in person or by counsel who shall enter an appearance in the case; provided, however, that if an admission of guilt or liability is entered, the Municipal Court may require the presence of the defendant for the assessment of the penalty, costs and other Municipal Court fees.
- (c) If the defendant appears in person, the Municipal Court shall advise him or her of the following:
 - (1) The nature of the traffic infractions alleged in the charging document;
 - (2) The penalty, fees and costs that may be assessed, and the penalty points that may be assessed against his or her driving privilege;
 - (3) The consequences of the failure to appear at any subsequent hearing, including entry of judgment against the defendant and reporting the judgment to the State Motor Vehicle Division, which may assess points against his or her driving privilege and may deny an application for a driver's license;
 - (4) The right to be represented by an attorney at the defendant's expense;
 - (5) The right to deny the allegations and to have a final hearing before the Municipal Court;
 - (6) The right to remain silent because any statement made by the defendant may be used against him or her;
 - (7) That guilt or liability for a traffic infraction must be proven beyond a reasonable doubt;
 - (8) The right to testify, subpoena witnesses, present evidence and cross-examine any witness;
 - (9) That any answer must be voluntary and not the result of undue influence or coercion on the part of any person; and
 - (10) That an admission of guilt or liability constitutes a waiver of the foregoing rights and any right to appeal.
- (d) The defendant personally or by counsel shall answer the allegations in the charging document either by admitting guilt or liability or by denying the allegations.
- (e) If the defendant admits guilt or liability, the Municipal Court shall enter judgment and assess the appropriate penalty, costs and other court fees, after determining that the defendant understood the matters set forth in Subsection (c) above and has made a voluntary, knowing and intelligent waiver of rights. The Municipal Court Clerk shall report the judgment and points, if any, to be assessed against the defendant's driving privilege to the State Motor Vehicle Division.
- (f) If the defendant denies the allegations, the matter shall be set for final hearing.

Sec. 8-2-80. Speedy trial.

The charges alleging a traffic infraction shall be dismissed if the final hearing is not held or judgment otherwise entered within the time requirements and standards otherwise applicable to noncivil Code violations.

Sec. 8-2-90. Final hearing of traffic infraction.

The hearing of all traffic infractions shall be conducted pursuant to the Colorado Rules of Evidence, and the conduct of the hearing shall otherwise be in the form applicable to non-civil Code violations.

Sec. 8-2-100. Judgment on traffic infraction after final hearing.

- (a) The burden of proof shall be upon the People, and the Municipal Court shall enter judgment in favor of the defendant unless the People prove the guilt or liability of the defendant beyond a reasonable doubt; provided however, that the Municipal Court may find the defendant guilty of or liable for a lesser included traffic infraction, if based on the evidence offered, and enter judgment.
- (b) If the defendant is found guilty or liable, the Municipal Court shall assess an applicable penalty and such additional costs and fees as are otherwise generally imposed in non-civil municipal offenses, together with applicable surcharges; and the Municipal Court Clerk shall report the judgment and the points, if any, to be assessed against the defendant's driving privilege to the State Motor Vehicle Division.
- (c) The judgment shall be satisfied upon payment to the Municipal Court Clerk of the total amount assessed by the Municipal Court.
- (d) If the defendant fails to satisfy the judgment upon the finding of guilt or liability, or within the time of a reasonable extension granted upon a showing of good cause by and upon the application of the defendant, such nonpayment in the full amount of the penalty, fees, costs and surcharges, if applicable, shall be treated as a default. A default shall be certified to the State Motor Vehicle Division for enforcement action.

Sec. 8-2-110. Traffic infraction post-hearing motions.

There shall be no traffic infraction post-hearing motions except for a motion to set aside a default judgment as provided in Section 8-2-120 below.

Sec. 8-2-120. Default on traffic infraction.

- (a) If the defendant fails to appear for his or her first appearance or any hearing involving a traffic infraction, the Municipal Court shall enter judgment against the defendant and, if appropriate, the Municipal Court Clerk shall report the judgment and points to be assessed against the defendant's driving privilege to the State Motor Vehicle Division.
- (b) The amount of the judgment shall be the appropriate penalty that would be assessed after a finding of guilt or liability, plus costs and other Municipal Court fees assessable to municipal violations generally upon conviction of non-civil municipal charges, together with applicable surcharges.
- (c) The Municipal Court may set aside a judgment entered under this Section on a showing of good cause or excusable neglect by the defendant. A motion to set aside the judgment shall be made to the Municipal Court not more than ten (10) days after the date of entry of judgment.
- (d) The defendant may satisfy judgment entered under this Section by payment in full of the penalty, costs and other court fees to the Municipal Court Clerk.
- (e) No warrant shall be issued for the arrest of a defendant who was charged with a traffic infraction and failed to appear at a first appearance or any subsequent hearing, or who failed to satisfy a judgment.
- (f) The provisions of Section 2-7-140 of this Code concerning bench warrants do not apply to traffic infractions as defined in this Section.

Sec. 8-2-130. Appeal.

An appeal of any finding of guilt or liability of traffic infractions shall be subject to the same procedures as applicable to convictions of municipal offenses generally.

Sec. 8-2-140. Traffic offense procedure.

The commencement and all subsequent proceedings through and including appeal on matters concerning a traffic offense shall be the same as those provided and required for non-civil municipal ordinance violations.

Sec. 8-2-150. Powers and duties of the Town Administrator.

(a) It shall be the general duty of the Town Administrator, in consultation with other Town engineering and law enforcement staff, or such other designee as determined by the Town Administrator, to determine the installation and proper timing and maintenance of official traffic-control devices; to conduct analyses of traffic accidents and to devise remedial or corrective measures; to conduct investigation of traffic conditions; to plan the operation of traffic on the streets and highways of this Town; to cooperate with other Town officials in the development of ways and means to improve traffic conditions; and to carry out the additional powers and duties as are imposed by this Chapter. By way of example, but not by way of limitation, the Town Administrator is authorized, consistent with the provisions of this Chapter, to act as follows:

(1) Install, maintain and remove traffic control devices in conformity with the Model Traffic Code and the standards and guidelines in the Manual on Uniform Traffic Control Devices, as currently in effect within the Town;

(2) Designate and mark medians and/or traffic islands;

(3) Conduct speed zoning studies and post speed limits;

(4) Designate minimum speed as provided by law or reduced speed for construction zones;

(5) Set speed limits within the Town on municipal streets, which are increased or decreased specifically from those set forth under Section 1101 of the Model Traffic Code.

(5) Regulate traffic movement by traffic signals and provide for the synchronization of the signals wherever practicable;

(6) Designate through streets or roadways and control entrances;

(7) Designate temporary detour and truck routes as necessary to avoid construction, emergency or other hazardous situations;

(8) Designate stop or yield intersections and erect stop or yield signs;

(9) Establish restrictions, prohibitions and regulations for the parking, standing or stopping of vehicles;

(10) Establish tow away zones;

(11) Designate and sign intersections at which drivers shall not make a right or left turn, a U-turn or any turn at all times or during certain times;

(12) Designate and sign intersections where multiple turns shall be allowed;

(13) Mark centerlines and lane lines and place other pavement markings necessary for the regulation and control of traffic;

(14) Install and maintain crosswalks at intersections or other places where there is particular danger to pedestrians crossing the roadway;

(15) Establish safety zones at places where necessary for pedestrian protection;

(16) Install pedestrian control signals and designate those crossings where angle crossing by pedestrians shall be permitted;

(17) Designate and sign those streets and roadways where pedestrians, bicyclists or other non-motorized traffic, or persons operating a motor driven cycle shall be excluded as provided by law;

(18) Provide for temporary street or alley closures by the erection of barricades and the temporary modification of traffic control devices during construction;

(19) Ensure that all traffic control devices required hereunder are uniform as to type and location as required by state law; and

(20) Post or cause to be posted or constructed official traffic control devices on private parking lots, driveways, roads, streets or highways, on condition that the private property owner pay for such devices and all costs incurred by the Town associated therewith.

ARTICLE III Abandoned and Inoperable Vehicles

[No changes to this Article]

ARTICLE IV Snow Parking Restrictions

Sec. 8-4-10. Definition.

As used in this Article, the term *vehicle* means any self-propelled motor vehicle or trailer that is designed to be drawn by a motor vehicle.

Sec. 8-4-20. Snow emergency declared.

- (a) Whenever, during any period of twenty-four (24) hours or less, snow falls in the Town or in a section thereof, to a depth of four (4) inches or more, a snow emergency is hereby declared to exist.
- (b) The Mayor, Town Administrator or Director of Public Works may also declare a snow emergency when existing or predicted storm weather conditions could severely impede vehicular traffic in the Town.
- (c) The failure of any announcement to be disseminated or the failure to receive actual notice of a snow emergency shall not excuse the owner or operator of any vehicle from complying with the provisions of this Article.
- (d) The snow emergency as provided for in this Section shall continue until the announcement by the Mayor, Town Administrator or Director of Public Works that snow plowing operations have been completed.

(Ord. 262 §1, 1988; Ord. 526 §1, 2005)

Sec. 8-4-30. Designation of snow routes.

- (a) The Town Administrator ~~or a designee and Director of Public Works~~ shall have the power and authority, and each is hereby empowered and authorized to designate certain streets within the Town as snow routes, and post signs along said routes advising of their designation.
- (b) The lack of visibility of any such sign when a parking restriction is in effect pursuant to Subsection (a) of this Section shall not excuse the owner or operator of any vehicle from complying with the provisions of this Article.

(Ord. 262 §2, 1988; Ord. 526 §1, 2005)

Sec. 8-4-40. Snow emergency parking restrictions.

- (a) Whenever a snow emergency is declared to exist, as provided in Section 8-4-20 above, snow parking restrictions shall be in effect and it shall be unlawful for any person to stop, park, abandon or leave any vehicle, for whatever reason, on any portion of any snow route, designated and marked with signs by the Town under Section 8-4-30 above.
- (b) Parking may be resumed on any individual street as soon as snow has been plowed the full width from curb to curb of that street.

(Ord. 262 §3, 1988)

Sec. 8-4-50. Enforcement.

- (a) Any vehicle stopped, parked, abandoned or left on any snow route in violation of the provisions of this Article shall constitute a misdemeanor, and any police officer or Town official whose duty it is to clear the snow routes is authorized to order the immediate removal of said vehicle. The vehicle may be immediately removed from the snow route to the nearest place where, in the judgment of the police officer or Town official, the vehicle will not obstruct a snow route.
- (b) The owner or operator of the vehicle removed from a snow route pursuant to this Section shall be responsible for all costs incurred as a result of the removal of the vehicle.
- (c) A person is guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this Article is committed, continued or permitted. Upon conviction of any violation of the provisions of this Article, the person shall be punishable by, and the Municipal Court shall assess, a fine of not less than thirty dollars (\$30.00) nor more than the maximum fine set forth in Section 1-4-20 of this Code, and no portion of said fine shall be suspended.

(Ord. 262 §4, 1988; Ord. 526 §1, 2005; Ord. 636-13 §4)

Sec. 8-4-60. Nonessential travel prohibited.

Whenever the Mayor, Town Administrator or ~~a designee~~ ~~Director of Public Works~~ determines that travel on streets within the Town or portions thereof may be or become extremely hazardous due to severe weather conditions or an emergency situation, he or she may order a ban on all nonessential operation of vehicles within the Town or a designated portion thereof. Upon such declaration, it shall be unlawful for any owner or operator to operate or allow to be operated any vehicle on the roadways within the Town or the portion thereof so designated, unless the vehicle's operation is essential to the functioning of a governmental body or the life, health or safety of any person.

ARTICLE V Parking, Storage, and Overweight Vehicle Restrictions and Regulations

Sec. 8-5-5. Definitions.

Authorized emergency vehicle means fire department vehicles, police vehicles, ambulances, and other special-purpose vehicles as are publicly owned and operated by or for a governmental agency to protect and

preserve life and property in accordance with state laws regulating emergency vehicles; said term also means such privately owned vehicles as are designated by the state motor vehicle licensing agency, necessary to the preservation of life and property, to be equipped and to operate as emergency vehicles in the manner prescribed by state law.

Authorized service vehicle means such highway or traffic maintenance vehicles as are publicly owned and operated on a right-of-way by or for a governmental agency the function of which requires the use of service vehicle warning lights as prescribed by state law and such other vehicles having a public service function, including, but not limited to, public utility vehicles and privately owned tow trucks approved by the Public Utilities Commission to respond to vehicle emergencies.

Bus means a motor vehicle designed to seat more than ten (10) passengers and used for the transportation of persons, either for compensation or not, including but not limited to motor vehicles operated for profit by governmental agencies and motor vehicles used for the transportation of children to and from school.

Construction equipment means a vehicle, whether self-propelled or not, designed for use in the construction, maintenance or repair of roadways, structures and ditches, or modified for use in the construction, maintenance or repair of roadways, structures and ditches, the use of which on public roadways is incidental to its primary use.

Empty weight means the weight of any motor vehicle or trailer or any combination thereof, including the operating body and accessories, as determined by weighing on a scale approved by the Town Administrator.

Hardened surface means a driveway or permanent parking pad covered with concrete, asphalt, recycled asphalt, pavers with a thickness of at least two (2) inches, or similar approved material. For purpose of this definition, a parking pad must have the appearance of a driveway to maintain the visual integrity of the purpose it serves. See Figure 1.

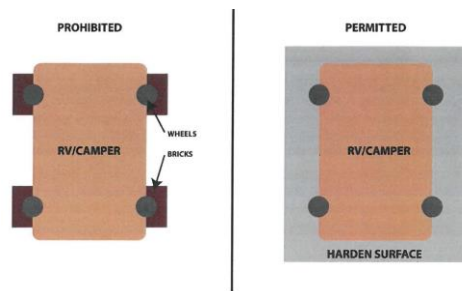


Figure 1

Motor vehicle or vehicle means any self-propelled vehicle which is capable of moving from place to place on wheels or tracks and which is designed to transport persons and property on or off roads or highways. This definition includes all recreational-type and all-terrain vehicles.

Recreational equipment means any boat, recreational vehicle or trailer used for carrying boats, horses, hobby or derelict vehicles or other equipment or motor vehicles upon the public right-of-way.

Recreational vehicle means a vehicular or portable unit mounted on a chassis and wheels, which either has its own motive power or is mounted on or drawn by another vehicle, including but not limited to, a motor home, mobile home, camping trailer, and trailer coach.

Semi-tractor means a motor vehicle with a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand and one (26,001) pounds and which is designed and commonly used to draw a semi-trailer and its cargo load over the public roadways.

Semi-trailer means a wheeled vehicle without motor power designed to be used in conjunction with a semi-tractor so that some part of its own weight and that of its cargo load rests upon or is carried by such semi-tractor.

Town Administrator means the Town Administrator or his or her designee.

Trailer means any wheeled vehicle, without motor power and having an empty weight of no more than two thousand (2,000) pounds, which is designed to be drawn over the roadway by a motor vehicle and to carry its load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public roadways.

Sec. 8-5-10. Parking, storage and use.

- (a) It is unlawful to park, keep or store any vehicle weighing more than ten thousand (10,000) pounds empty weight, semi-tractor, semi-trailer, tow truck, bus or construction equipment or permit the same to be parked, kept or stored, on any public street, highway, road, alley or any other right-of-way within the Town, or on any private property in any residential zoned district or mobile home district within the Town, except in the following circumstances:
 - (1) When said vehicle is being expeditiously used to render pick-up and delivery services, loading and unloading, or for construction activities to property located within two hundred (200) feet of where said vehicle is parked. Any interruption in said services for longer than one (1) hour shall be unlawful and constitute a violation of this Section.
 - (2) Authorized emergency vehicles.
 - (3) Authorized service vehicles responding to service calls.
 - (4) When said vehicle is parked along First Street, Palmer and Colfax Avenues, Highways 36 and 79, and rights-of-way in that area encompassed within the following: from Pike Street east to Custer Street, and Kiowa Avenue north to Colfax Avenue; provided that such motor vehicles are operable, have not been left in any one (1) location for a continuous period of more than seventy-two (72) hours and do not obstruct the sidewalk or line of sight necessary for the right-of-way or create a health or safety risk.
 - (5) When the owner or driver of the vehicle has been issued an overweight vehicle permit pursuant to Section 8-5-25 of this Code.
- (b) Except as provided in Subsections (c) and (d) below, it is unlawful to park or permit to stand any recreational equipment on any public street, highway, road, alley or other right-of-way within the Town for a cumulative total of more than forty-eight (48) hours within any seven-day period, irrespective of whether the recreational equipment is moved from one (1) public street, highway, road, alley or other right-of-way within the Town to another.
- (c) No trailer or boat shall be detached from a towing motor vehicle and left standing on any public street, highway, road, alley, or any other right-of-way for more than forty-eight (48) hours, unless preapproved in accordance with Subsection (d) of this Section.
- (d) Upon the application of a resident of the Town, a recreational vehicle permit may be issued by the Town Building Department for any nonresident journeying in a recreational vehicle used for sleeping purposes or housekeeping purposes and who is visiting at the residence of the applicant allowing that person to park and occupy the recreational vehicle at the applicant's residence for not more than seven (7) days. The recreation vehicle permit shall specify the location of the applicant's property and adjacent right-of-way on which the recreational vehicle will be parked while occupied. The recreational vehicle permit fee shall be set forth in the Town's adopted fee schedule.
- (e) It is unlawful to park, store or permit to stand any motor vehicle or recreational equipment on a portion of residential property that is within public view, unless the motor vehicle or recreational equipment is parked or standing on a hardened surface of a sufficient size to accommodate the entire length and width of the motor or recreational vehicle. Such hardened surface shall be maintained at a minimum depth of two (2)

inches and shall be kept free of weeds and debris. No motor vehicle or recreational equipment vehicle shall access a hardened surface public street or alley unless it does so from a hardened surface.

- (f) Any recreational equipment parked or stored outdoors on a hardened surface of residential property shall be in safe, working and operating condition and shall bear current license plates and be currently registered.
- (g) It is unlawful to park any motor vehicle, combination of vehicles or recreational equipment on private property in a manner that encroaches upon or obstructs the public sidewalk. Notwithstanding any other provision of this Section, motor vehicle(s) and recreational equipment shall not be parked or stored in any manner that would create a public safety issue, including without limitation obstructing the sidewalk or line of sight necessary for the right-of-way or creating a health or safety risk.
- (h) Except as provided in subsection (d) above, no recreational equipment shall be used within the Town for the conduct of business or for living, sleeping or for housekeeping purposes.
- (i) After being warned once, motor vehicles or recreational equipment parked or stored in violation of this Section shall be subject to towing by the Town or Town's contractor without notice and at the expense of the owner. Motor vehicles or recreational equipment towed shall have a lien on them by the Town or tow company for towing and storage charges and shall be held until paid or sold if charges are not paid within thirty (30) days. When a motor vehicle or recreational equipment is parked in a manner that constitutes an immediate traffic hazard or is blocking a public-right-of way or public utility, no warning shall be required and the vehicle or equipment may be impounded immediately.

Sec. 8-5-15. Temporary parking restrictions.

The Town shall have the authority to temporarily restrict parking on any public street or alley for street sweeping or snow removal or other maintenance or repair by posting signs in the vicinity or placing fliers on vehicles or equipment, or such other reasonable manner of public notice, and it shall be unlawful for any person or entity to park vehicles or equipment in violation of the restrictions stated on said signs or notices.

Sec. 8-5-17. Specific "No Parking" areas or restrictions not otherwise governed by Part 12, Parking, of the Model Traffic Code.

It shall be unlawful to stop, stand or park on any portion of the driveway access that lies within the public right-of-way or within five (5) feet of either side of said access along Seventh Avenue for Bennett Elementary School, Bennett Middle School and Bennett High School.

Sec. 8-5-20. Weight limits.

- (a) When official traffic control devices are erected giving notice thereof, no person shall operate any vehicle with a weight limit in excess of the amount specified on such devices at any time upon any of the streets or parts thereof or upon any of the bridges or viaducts described in or controlled by such traffic control devices.
- (b) No person shall drive, operate or move any vehicle exceeding ten thousand (10,000) pounds empty weight upon any of the streets or parts thereof within the Town, excluding First Street, Palmer and Colfax Avenues, Highways 36 and 79, and that area encompassed within the following: from Pike Street east to Custer Street, and Kiowa Avenue north to Colfax Avenue.
- (c) The following vehicles are exempt from the requirements of this Section: authorized emergency vehicles, authorized service vehicles, public utility vehicles, snow plows operated by or for a governmental entity,

vehicles making deliveries and pick-ups in the normal course of business, school buses, public transportation vehicles operated by or for a governmental entity, recreational vehicles which are then expressly being used for recreational purposes, and vehicles that have been issued an overweight vehicle permit pursuant to Section 8-5-25 of this Code.

(Ord. 314 §2, 1994; Ord. 526 §1, 2005; Ord. 567 §3, 2007; Ord. 686-18 , §1, 2-13-2018)

Sec. 8-5-25. Permit for overweight vehicles.

- (a) Permit authorized. The Town may, upon application in writing and good cause being shown therefor, issue a permit authorizing the applicant to operate or move a vehicle of a weight exceeding ten thousand (10,000) pounds gross weight or otherwise not in conformity with the provisions of this Article. Said permit may also authorize the overnight parking of construction equipment or a vehicle weighing more than ten thousand (10,000) pounds empty weight on a public street, highway, road, alley or any other right-of-way within the Town or on any private property in any residential or mobile home district within the Town.
- (b) Conditions for issuance of permit. The following conditions shall apply to all permits issued pursuant to this Section:
 - (1) No permit will be issued if the vehicle is of a weight in excess of the structural capacity of the rights-of-way as determined by the Town Engineer and Public Works Director.
 - (2) No permit will allow overnight parking of a semi-tractor, semi-trailer or bus in a residential or mobile home zone district.
 - (3) The permit shall be valid for the specific vehicle described in the application and the specific location for which it is granted. Any change of vehicle or of location shall require a new application.
 - (4) For applications requesting parking in a residential or mobile home zone district, a permit will be issued only for the property where the applicant resides or for rights-of-way adjacent to the property where the applicant resides.
 - (5) No part of the vehicle shall extend upon any lot line, obstruct any public or private walk or block access of authorized emergency vehicles to the rights-of-way, the property or adjacent properties.
- (c) Application. The application shall be on a form prescribed by the Town and shall include, as applicable:
 - (1) The make, model, year of manufacture, color, vehicle identification number (VIN), license plate number, registration and weight of the vehicle.
 - (2) A description of the load to be operated or moved and the particular streets or other public ways for which the permit to operate is requested.
 - (3) Where parking is requested, identification of the proposed parking location of the vehicle. Where the vehicle is proposed to be parked on private property, inclusion of a plot plan of the property showing the proposed parking location.
 - (4) Where parking is requested on private property not owned by the applicant, a statement of approval signed by the owner of said property.
 - (5) Whether an application is for a single trip, temporary parking or annual permit.
 - (6) For permits requesting overnight parking in a residential or mobile home district, a list of the names and addresses of the owners of each property within three hundred (300) feet of the proposed parking location.
 - (7) A permit fee in the amount set forth in the Town's adopted fee schedule.

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- (d) Types of permits. The following types of overweight vehicle permits may be issued by the Town:
- (1) Single trip permit. A permit that is valid for a single trip for a set number of days or dates that allows an overweight vehicle to travel over specifically designated roadways.
 - (2) Temporary parking permit. A permit that is valid for a period not to exceed fourteen (14) days allowing overnight parking of an overweight vehicle on a specifically designated roadway or address.
 - (3) Annual permit. A permit that is valid for one (1) year from the date of issuance allowing an overweight vehicle to travel over specifically designated roadways and/or overnight parking on a specifically designated roadway or address. Annual permits may be renewed subject to the terms and conditions provided for in the initial permit application. For annual permits that include overnight parking, if the Town received no valid complaints concerning the overweight vehicle in the previous permit period, the Town Administrator may grant a renewal of the permit without the need for Town Board approval.
- (e) Review and issuance of permit.
- (1) Applications for annual permits that include a request for overnight parking in a residential or mobile home zone district will be reviewed and acted on by the Town Board at a public meeting. At least fifteen (15) days prior to the meeting at which the application will be considered, the applicant shall mail notice to property owners within three hundred (300) feet of the proposed parking location notifying them of the time, date and location of the meeting, and the proposed action.
 - (2) Applications for single trip, temporary, and annual permits not including a request for overnight parking in a residential or mobile home district will be administratively reviewed and acted on by the Town Administrator.
- (f) Review criteria. In determining whether an application for an overweight vehicle permit should be approved, the following criteria shall be considered:
- (1) Any unnecessary and substantial hardship that may result from the denial of the permit.
 - (2) Noise or odor problems which may result from the granting of the permit.
 - (3) For permits requesting overnight parking in a residential or mobile home zone district, the concerns and desires of the neighbors.
 - (4) Alternate parking locations and routes available to the applicant.
 - (5) Compatibility of the movement and/or proposed parking of the overweight vehicle within the neighborhood.
 - (6) The public health, safety and welfare of the residents of the Town and the impact on the Town's rights-of-ways.
- (g) Conditions. The Town may impose reasonable conditions on a permit to mitigate in whole or in part any adverse impacts or damages, including but not limited to:
- (1) Restricting the permit to specific roads or segments of roads or routes.
 - (2) Limiting the number of trips or establishing seasonal or other time limitations within which the overweight vehicle may be operated on the roads indicated.
 - (3) Limiting or prescribing conditions of operation of the overweight vehicle when necessary to assure against undue damage to streets, viaducts, bridges, and other public rights-of-way.
 - (4) Requiring such undertaking or security as may be deemed necessary to compensate for any injury to any street, viaduct, bridge or other public right-of-way.

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- (h) Display and inspection of permit. Every permit issued pursuant to this Section shall be carried in the vehicle to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of the Town. When the vehicle is parked, its parking permit shall be displayed in its rear and front window so as to be clearly visible from the street.
 - (i) Compliance; revocation of permit. A permittee shall be responsible for compliance with all the terms or conditions of the permit and the Bennett Municipal Code. Any permit issued pursuant to this Section may be removed for cause after notice to the permittee and a hearing to be conducted by the Town Administrator when the permit was issued by the Town Administrator or the Town Board when the permit was issued by the Town Board.
 - (j) Liability for damage to roads.
 - (1) Any person who drives, operates, moves or parks any vehicle weighing in excess of ten thousand (10,000) pounds upon or over any roadway or roadway structure in a manner that causes damage to the roadway or roadway structure shall be liable for all damages sustained as a result of the operation, driving, moving or parking of the overweight vehicle.
 - (2) Whenever the driver of such vehicle is not the owner thereof but is operating, driving, moving or parking such vehicle with the express or implied consent of the owner thereof, then the owner and driver shall be jointly and severally liable for any such damage. The liability for damage sustained by any such roadway or roadway structure may be enforced through a civil action by the Town.
 - (3) It shall be no defense to any action, either civil or criminal, that the weight of the vehicle was authorized by a permit issued pursuant to this Section.
 - (k) Relationship to excavation and rights-of-way permits. Where an overweight vehicle or construction equipment is specifically allowed to operate or park on a right-of-way pursuant to an excavation or right-of-way permit issued by the Town, an overweight vehicle permit shall not be required.

(Ord. 686-18 , §1, 2-13-2018)

Sec. 8-5-27. Idling prohibited.

It shall be unlawful for any person to allow a vehicle exceeding ten thousand (10,000) pounds empty weight to idle for more than five (5) minutes in any one-hour period, except the foregoing shall not apply to: authorized emergency vehicles; authorized service vehicles; vehicles engaged in traffic control operations; vehicles which are being serviced; vehicles that must idle to operate auxiliary equipment, including but not limited to pumps, compressors or refrigeration units; or vehicles en route to a destination that are stopped by traffic congestion.

Sec. 8-5-30. Motorized vehicles restricted.

- (a) Unlawful use. It is unlawful for any person to operate any licensed or unlicensed motor vehicle, whether registered or unregistered, in any of the following places:
 - (1) On any public property, excluding improved public roadways or parking lots, within the corporate limits of the Town, unless such operation is specifically permitted by written order of the Board of Trustees or its authorized representative, or unless such property is specifically posted for such operation.
 - (2) On any property located within the Town and owned or maintained by a school district or any other public school grounds or campus, except upon improved roadways and parking lots specifically designated for the operation of motor vehicles and used for the purpose of making authorized pickups and deliveries or for parking of such vehicle, unless such operation is specifically permitted by written order of the district superintendent of schools or his or her designated representative, or the president

of the governing body thereof or his or her designated representative. This provision shall not apply to authorized school or emergency vehicles.

- (3) On any railroad right-of-way, with the exception of authorized railroad vehicles.
 - (4) On any private property within the Town, except improved driveways, roadways and parking lots open to the public, unless by specific written order of the owner or designated representative of the owner of such property to the individual operating the motor vehicle or unless such property is specifically posted for such operation.
 - (5) On any other publicly or privately owned parks or recreational areas or facilities, bike trails, horse trails, lake areas, easements, sidewalks or areas dedicated to or commonly used for pedestrian or bicycle traffic, unless such operation is specifically permitted by written order of the Board of Trustees, or unless such property is specifically posted for such operation.
- (b) Written authorization. All written orders specified in this Section must be in the possession of the person operating the motor vehicle in prohibited areas during the time of such operation.
 - (c) Responsibility of adults for minors. It is unlawful for any parent, guardian or any adult to authorize, assist, permit or encourage any minor to operate any motor vehicle in violation of the provisions of this Section.

ARTICLE VI Fire Lanes

[No changes to this section]

BOARD MEETING SUMMARY MINUTES vs ACTION MINUTES



TO: Mayor and Town of Bennett Board of Trustees

FROM: Christina Hart, Town Clerk

DATE: May 24, 2022

SUBJECT: Best Practices - Board Meeting Summary Minutes vs Action Minutes

The minutes of a meeting are the written record of a meeting or hearing. They typically describe the events of the meeting and include a list of attendees, a statement of the issues considered by participants and related responses or decisions for the issues. The recording is the official record of the meeting. The purpose of minutes is to create an official record of the body's actions but that purpose becomes clouded and/or obscured when irrelevant material is included.

Robert's Rules of Order, which is also widely known as a parliamentary procedure, offers a simple guideline: minutes should record what is done, not what is said. There are many disadvantages to detailed summary minutes, including the tendency to personalize and possibly politicized discussions, moving the focus from *what* the elected body's decision was to *who* said *what*. The details of who said what does not have to be recorded. It is the decision of the body as a whole that is important. Discussion is merely a means to an end, not an end in itself.

The Clerk's Office currently provides a detailed summary of meeting minutes for the written record. The time spent on summarizing the minutes is lengthy and can impact other important tasks and deadlines. In addition, detailed minutes make it difficult to sort out the actions taken from the overall discussion.

In the worst case, detailed minutes provide fodder for opponents should the Board ever be involved in a lawsuit. Individual arguments, given in good faith, could potentially create liability for the individuals involved.

In the clerking field, action minutes are considered best practice for the written record of a meeting or hearing and are now considered the standard recordation method. In contrast to detailed minutes, action minutes provide a concise written record of the meeting without including unnecessary discussion. Staff reached out to clerks in the area and the vast majority of communities are doing action minutes. Many of the surveyed clerks said action minutes save them hours of time.

Per the retention schedule, the Town retains the meeting recording for 6 months after the minutes have been approved. Retention of the recording should be reconsidered to permanent retention since the recording is the official record. Per the Town Attorney, there would be no legal issues keeping the audio recordings permanently and it is recommended to retain the audio if the Town moves to action minutes. The executive session audio will still follow the retention period to destroy after 90 days.

The Clerk's Office is proposing to move to action minutes as the record for Board of Trustees meetings. Action minutes would include:

- Call to Order
- Roll Call
- Public Comment
- Consent Agenda
- Action taken during public hearings
- Action taken during regular business
- Executive Sessions
- Adjournment

Attached to this memo are examples of action minutes and detailed summary minutes in order to show the difference between the two.

Additional items like the Town Administrator report, Trustee comments and committee reports could also be included in the minutes if that is the will of the Town Administrator and/or Board of Trustees.

If there is a robust discussion on a specific topic, the minutes can include bullet points of that discussion and the high-level items that were brought up; however, the names of those who spoke would not be listed.

Any direction from the Board would be provided in the minutes. The motion and roll call also help showcase the action taken by the Board and would be included.

The Towncloud agenda platform allows for action minutes to be created within the agenda software management. This would also help eliminate the need to produce a separate document of detailed summary minutes.

Staff Recommendation

With respect to best practices, it is the recommendation of Town staff that the Board of Trustees adopt a policy for the Clerk's Office to move from summary minutes to action minutes and permanently retain the meeting audio recordings beginning with the May 24, 2022, regular meeting.

Attachments

1. Town of Bennett Summary Minutes
2. Action Minutes Example - Town of Elizabeth

TOWN OF BENNETT, COLORADO
BOARD OF TRUSTEES
Regular Meeting
April 26, 2022

1. CALL TO ORDER

The Board of Trustees of the Town of Bennett met in regular session on Tuesday, April 26, 2022 via hybrid meeting. Mayor Royce D. Pindell called the meeting to order at 7:02 p.m. The following persons were present upon the call of the roll:

Mayor: Royce D. Pindell

Trustees Present: Kevin Barden
Steve Dambroski
Darvin Harrell
Whitney Oakley
Denice Smith - *excused*
Donna Sus

Staff Present: Trish Stiles, *Town Administrator*
Taeler Houlberg, *Administrative Services Director*
Alison Belcher, *Communications and IT Director*
Adam Meis, *IT and Communications Manager*
Robin Price, *Public Works Director*
Ricky Martinez, *Assistant Public Works Director*
Mike Heugh, *Town Traffic Engineer*
Steve King, *Special Projects Coordinator*
Melinda Culley, *Town Attorney*
Christina Hart, *Town Clerk*

Public Present: Kathy Smiley, Steve Vetter, Rick Weeks, LeeAnn Weeks, Steve Neuenfeldt, Javier Rico, Jalee Kitzman, Robin Purdy, Nancy Barden, Andrew Thornton, Kyle Meyer, James Dubois

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Royce D. Pindell.

3. APPROVAL OF AGENDA

MAYOR PRO TEM HARRELL MOVED, TRUSTEE OAKLEY SECONDED to approve the agenda as presented. The voting was as follows:

YES: Dambroski, Harrell, Oakley, Pindell, Sus, Barden
NO: None

EXCUSED: Smith
Mayor Royce D. Pindell declared the motion carried by unanimous vote.

4. CONSENT AGENDA

TRUSTEE OAKLEY MOVED, TRUSTEE BARDEN SECONDED to approve the consent agenda as approved. The voting was as follows:

YES: Harrell, Oakley, Pindell, Sus, Barden, Dambroski
NO: None
EXCUSED: Smith

Mayor Royce D. Pindell declared the motion carried by unanimous vote.

- A. **Action:** Approval of April 12, 2022 Regular Meeting Minutes
- B. **Action:** Resolution No. 914-22 – A Resolution Approving the 2022 IGA For Open Space Sales and Use Tax Shareback Funds

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Rick Weeks, 1083 South County Road 145, Bennett, Co., requested paved trails in addition to the gravel trails in the Arapahoe County Open Space Park allowing access for wheelchair accessibility, road bikes, and/ or roller blading. Thanked the Town for developing the Open Space.

Steve Neuenfeldt, 270 Cleveland Court, Bennett, Co., stated his residence is being inundated with dust from the construction projects. He has not witnessed any water mitigation or attempts to cover the mounds of dirt.

5. REGULAR BUSINESS

A. Action/Discussion

1. Adams County Mayor and Commissioners Youth Award (ACMCYA) Nominees

Steve King, Special Projects Coordinator, reported to the Trustees, the Adams County Mayors and Commissioners Youth Award (ACMCYA) is a program that recognizes youth in grades 6th-12th who have overcome personal adversity to create positive change in their lives and communities. Each year, the Board of Trustees honors the youth nominated by the Bennett School District for the ACMCYA award.

The three youth honorees for this year's recognition ceremony include:

- Blake Albertson, 7th grade, Bennett Middle School
- Angela Lopez, 8th grade, Bennett Middle School
- Isis Trujillo Delgado, 8th grade, Bennett Middle School

Each honoree has overcome difficult situations in their lives by exhibiting strength and determination in the face of adversity. We recognize these young people for the positive influence they have had on their community and those around them.

Royce D. Pindell, Mayor, called for a recess at 7:15 p.m. The meeting resumed at 7:25 p.m.

2. Colorado Department of Transportation (CDOT) Memorandum of Understanding (MOU) Truck Parking 3P (Public Private Partnership) Project

Bennett has been home to the Love's Truck Stop since 2011, which provides spaces for overnight parking for freight vehicles as well as a stop for vehicles along I-70. The success of the business has also been overshadowed by too much freight parking needs, leading truckers to park along Marketplace Dr. over the years. The abundance of vehicles is not surprising given the lack of truck parking in the metro Denver region as well as the nationwide lack of truck parking. The issue is a major one as well with CDOT and their Freight Division led by Craig Hurst. As Mr. Hurst has pointed out, national rules require safe spaces for these trucks to park with proper amenities and the State of Colorado lacks adequate facilities compounded by the closures of rest stops, such as Lady Bird Hill for example.

In Bennett, Love's has had multiple discussions with Town staff to expand their facility to offer more parking, however, in past years the issue has been compounded by expensive needs for a traffic signal, and the lack of functional capacity of the 304 bridge. While this has stifled the expansion in the past, staff has made significant progress on projects that alleviate these concerns. A TIP award from DRCOG's sub-regional forums for the signalization of the east bound off ramp as well as signalization of HWY 79 and Marketplace Dr. will make great strides to improve traffic flow and backups.

When meeting with CDOT staff, the Town identified that one major hindrance to not only Love's expansion and growth but also Town needs as well, is the functionally obsolete bridge at 304. The bridge currently does not meet standards to make it onto the bridge enterprise list with CDOT that would help with improvements such as exit 305, but the current bridge is functionally obsolete as it is too narrow, impedes proper traffic movement and is in constant need of repairs. Such repairs though keep the bridge from meeting requirements for bridge enterprise.

In order though to make Love's expansion possible, solve our Town issue with Market Place parking and to address system needs for truck parking facilities, the partnership idea was formed. CDOT can bring to the table \$2.0 million dollars to design the replacement of the 304 bridge and the management of the design project, while Love's brings additional expansion of truck parking and the Town brings signalization of the 304 east bound off ramp and Marketplace Dr. In order to solidify this partnership and MOU between the Town of Bennett and CDOT is needed.

The MOU goals are stated as follows: "CDOT is entering into this MOU with the Town of Bennett to make a meaningful impact on the lack of truck parking in Colorado and to articulate the roles and responsibilities of this Truck Parking Public Private-Partnership project. The Town of Bennett will work with Love's Travel Stop to expand its parking capacity. The bridge will be designed to help alleviate congestion and increase the ease of access to the additional parking spaces."

Roles and responsibilities are as follows:

CDOT

- CDOT will design the SH79 over I70 bridge replacement per the preferred alternative from the 2013 Planning and Environmental Linkage (PEL) Study.
- The 2013 SH79 PEL Study identifies a new structure that includes shoulders and turn lanes as well as an additional lane in each direction.
- CDOT will progress the plans to a post FOR level design to be shelved.
- CDOT will utilize up to \$2,000,000.00 from the National Highway Freight Program (NHFP) to fund this design.
- The estimated schedule to deliver the design plans will be approximately 12-16 months after the Notice to Proceed (NTP) is given to the selected consultant.
- NTP to initiate the design is projected to be late Q3 or early Q4 of 2022.
- CDOT is not able to provide any additional funds beyond the \$2M that has been identified by the Freight Program.
- CDOT will not begin design until the groundbreaking of the parking expansion has occurred.

Town of Bennett

- The Town will work with Love's Truck Stop to expand truck parking adjacent to the existing truck stop by a minimum of 70 parking spaces.
- Any agreement for truck parking expansion will occur between the Town and Love's.
- The Town will use the CDOT provided plans to leverage funding for the bridge construction and to update the shelved plans.

TRUSTEE OAKLEY MOVED, TRUSTEE DAMBROSKI SECONDED to approve the Memorandum of Understanding between the Colorado Department of Transportation and the Town of Bennett concerning the Truck Parking Public Private-Partnership Project. The voting was as follows:

YES: Oakley, Pindell, Sus, Barden, Dambroski, Harrell

NO: None

EXCUSED: Smith

Mayor Royce D. Pindell declared the motion passed unanimously.

3. Request for Proposal (RFP) 22-04 – Recycled Water Pump and Treatment Station Project

Robin Price, Public Works Director, reported to the Trustees, in 2019 the Town of Bennett received an Adams County Open Space Grant to implement a reclaimed water system and deliver reclaimed water for irrigation use at key Town parks.

At the Board meeting on May 25, 2021, Town Staff presented and received approval to award a contract to MSK Consulting for the design of the Reclaimed Water Pump, Treatment Station and Transmission Pipeline Project. Since that time, MSK Consulting has been working diligently on the design of the pipeline as well as the pump station.

At the Board meeting on September 14, 2021, Town Staff presented and received approval to purchase 6,000 linear feet of 12-inch C900 DR18 purple pipe.

On November 10, 2021, Town Staff posted RFP 21-014 - Phase one Recycled Water Pipeline - Segment 1. Bids were due on Wednesday, December 1, 2021, at 2:00 p.m. The project included installation of approximately 3,595 feet of owner-furnished 12-inch C900 DR18 PVC pipe for the recycled water distribution system, including appurtenances.

On April 5, 2022, Town Staff posted RFP 22-04 – Recycled Water Pump and Treatment Station. The RFP was posted on BidNet Direct as well as the Town website. Bids were due on Tuesday, April 19, 2022, at 4:00 p.m. The project includes a pump house and treatment system housing and building, additions or modifications to the Phase 1 wet well, relocation and addition/upgrade to the electrical service and associated equipment for the current pump station site, system controls, all necessary controls, instrumentation and equipment, and all necessary and related system valves, piping and flow metering.

Town Staff received calls from Moltz Construction as well as Strait Mechanical. Moltz Construction was interested in bidding the project but due to the time line of completion, they decided not to bid because of their backlog of work. Strait Mechanical was interested in bidding but they were unable to bid the entire scope of the project. Ultimately, Dan's Custom Construction was the only contractor that submitted a bid. The bid from Dan's Custom Construction was \$294,500.00 and all elements of the bid package were provided. The company provided a responsive bid and is a qualified contractor with experience installing water and wastewater construction. Dan's Custom Construction installed the existing load out stations, concrete manhole (wet well) and submersible pumping, piping, valves and controls.

TRUSTEE OAKLEY MOVED, TRUSTEE DAMBROSKI SECONDED to authorize the Mayor and the Town of Bennett to enter into a Construction Manager at Risk contract with Dan's Custom Construction with a guaranteed maximum price of \$294,500 for the Recycled Water Pump and Treatment Station project. The voting was as follows:

YES: Pindell, Sus, Barden, Dambroski, Harrell, Oakley

NO: None

EXCUSED: Smith

Mayor Royce D. Pindell declared the motion passed unanimously.

6. TOWN ADMINISTRATOR REPORT

Trish Stiles, Town Administrator, reported on the following:

- The Colorado Municipal League (CML) is offering many (hybrid) trainings for Elected Officials. The dates for the training will be provided to the Trustees.
- Exit 305 (Kiowa Bennett Road) has been slated for the Bridge Enterprise dollars.
- Exit 304 (East bound off-ramp) design bid have been submitted for proposals.
- Transportation Master Plan Engage, Shape, Build is slated for June.
- Peter Kozinski has signed a consulting contract with the Town of Bennett.
- Community Night Out is scheduled for August 2, 2022. More to come.
- September 9, 2022 is the Bennett Days staff lunch. The Trustees are encouraged to participate and mingle with Town staff.
- Entertaining different ideas in place of the traditional Bennett Days Board dinner to encourage more foot traffic at the Trustees booth i.e. give away gift cards, Town swag.

- The joint meeting between the Town and Bennett Parks and Recreation District Board are scheduled for May 23, 2022 from 6:30 pm – 8:00 pm at Town Hall to discuss the Intergovernmental Agreement (IGA).

7. TRUSTEE COMMENTS AND COMMITTEE REPORTS

Royce D. Pindell

Mayor Pindell reported on the following:

- Proclaimed Friday, April 3, 2022 as Arbor Day in the Town of Bennett. He encouraged all citizens to celebrate Arbor Day supporting efforts to protect and plant trees. Mayor Pindell expressed his gratitude to Lance Grothe for annually donating trees to the Town of Bennett.
- Attended the Adams County Mayor and Commissioners Youth Award ceremony.

Darvin Harrell

Mayor Pro Tem Harrell reported on the following:

- Gave a shout-out to the Adams County Sheriff's department.
- Expressed a desire to see a one day "Fun Day" during the summer as an option for kids and families to come together.
- Inquired about the possibility for a baseball complex.

Whitney Oakley

Trustee Oakley reported on the following:

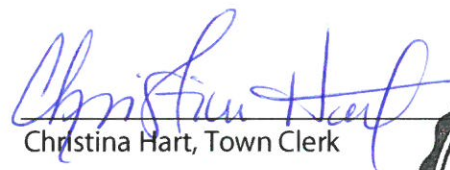
- Trustee Oakley volunteered to be the liaison for the Board of Trustees for Bennett Days.

8. ADJOURNMENT

TRUSTEE DAMBROSKI MOVED, TRUSTEE BARDEN SECONDED to adjourn the meeting. The meeting was adjourned at 8:23 p.m. Voting was as follows:

YES:	Barden, Dambroski, Harrell, Oakley, Pindell, Sus
NO:	None
EXCUSED:	Smith

Mayor Royce D. Pindell declared the motion carried by unanimous vote.


Christina Hart, Town Clerk




Royce D. Pindell, Mayor



Board of Trustees – Record of Proceedings
October 12, 2021

CALL TO ORDER

The Regular Meeting of the Board of Trustees of the Town of Elizabeth was called to order on Tuesday, October 12, 2021, at 7:00 pm by Mayor Megan Vasquez.

ROLL CALL

Present were Mayor Megan Vasquez, Mayor Pro Tem Angela Ternus, Trustees Tammy Payne, Bret Wade, Loren Einspahr, Linda Secrist, and Ron Weaver.

Also present were Interim Town Administrator Chris Lowe, Town Clerk Michelle Oeser, Chief of Police Melvin Berghahn, and Public Works Director Mike DeVol.

UNSCHEDULED PUBLIC COMMENT

No public comment.

AGENDA CHANGES

No agenda changes from the Administration.

No agenda changes from the Board.

Agenda set.

CONSENT AGENDA

1. Minutes of the Regular Meeting of September 28, 2021

Motion by Mayor Pro Tem Ternus, seconded by Trustee Einspahr, to approve the Consent Agenda.

The vote of those Trustees present was 7 in favor and 0 opposed. Motion passed unanimously.

PRESENTATION

3. Public Works Staff introduction

QUARTERLY REPORT

4. Historic Advisory Board

NEW BUSINESS

5. Discussion and possible action on Resolution 21R41, a Resolution conditionally approving the Final Plat for certain property within the Town of Elizabeth known as Legacy Village Subdivision Filing NO.1

Motion by Mayor Pro Tem Ternus, seconded by Trustee Wade, to approve Resolution 21R41, a Resolution conditionally approving the Final Plat for certain property within the Town of Elizabeth known as Legacy Village Subdivision Filing NO.1.

The vote of those Trustees present was 5 in favor and 2 opposed. Trustees Weaver and Secrist opposed. Motion passed.

6. Discussion and possible action on Resolution 21R42, a Resolution conditionally approving the Final Plat for certain property within the Town of Elizabeth known as Legacy Village Subdivision Filing NO.2

Motion by Trustee Payne, seconded by Trustee Einspahr, to approve Resolution 21R42, a Resolution conditionally approving the Final Plat for certain property within the Town of Elizabeth known as Legacy Village Subdivision Filing NO.2.

The vote of those Trustees present was 5 in favor and 2 opposed. Trustees Weaver and Secrist opposed. Motion passed.

7. Discussion and possible action on Resolution 21R43, a Resolution approving the License Agreement between the Town and the Elizabeth Area Chamber of Commerce

Motion by Trustee Wade, seconded by Trustee Weaver, to approve Resolution 21R43, a Resolution approving the License Agreement between the Town and the Elizabeth Area Chamber of Commerce.

The vote of those Trustees present was 7 in favor and 0 opposed. Motion passed unanimously.

8. Discussion and possible action on Resolution 21R44, a Resolution approving the License Agreement between the Town and the Elbert County Republicans

Motion by Mayor Pro Tem Ternus seconded by Trustee Payne, to approve Resolution 21R44, a Resolution approving the License Agreement between the Town and the Elbert County Republicans.

The vote of those Trustees present was 7 in favor and 0 opposed. Motion passed unanimously.

9. Discussion and possible action on selecting a name for 500 E. Kiowa Avenue

Motion by Trustee Einspahr, seconded by Trustee Wade, to name town property located at 500 E. Kiowa Avenue Running Creek Park.

The vote of those Trustees present was 6 in favor and 1 opposed. Mayor Pro Tem Ternus opposed. Motion passed unanimously.

MANAGEMENT MONITORING REPORTS

- Discussion on Town Administrator applicant interview schedule.
- 2022 budget workshop set for November 6, 2021.
- Discussion on the interview process and questions for applicants.
- Chief Berghahn gave Student Academy updates.
- Mr. DeVol updated the Board on mail kiosks.
- Discussion on repair of a bridge in Gold Creek Valley subdivision.
- General discussion in regard to mail kiosks in town.
- Zach Higgins let the board know things are going well in his planning position.

BOARD OF TRUSTEE REPORTS

- Mayor Pro Tem Ternus discussed attending the Elbert County Elections open house.
- Mayor Pro Tem Ternus discussed the Elizabeth School Districts Home Grown Talent program.
- Trustee Einspahr discussed attending Wine in the Pines.
- Mayor Vasquez discussed meeting with the Eastern Central Council of Local Governments on Senior Services.
- Mayor Vasquez discussed having a future meeting with Desiree Kameka about the need for a community center and homes for Elizabeth's disabled community.
- Discussion on putting out an RFP for 2022 town events.

ADJOURNMENT

Motion by Trustee Einspahr, seconded by Trustee Weaver, to adjourn meeting at 9:35 pm. The vote of those Trustees present was unanimously in favor. Motion carried.

Town Clerk Michelle Oeser

Mayor Megan Vasquez